

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION

PERSONNEL ADMINISTRATION

PREAMBLE

1. Sections Affected

Rulemaking Action

Article 2	
R2-5-201	Amend
R2-5-202	Amend
R2-5-203	Amend
R2-5-204	Amend
R2-5-205	Amend
R2-5-206	Amend
R2-5-207	Amend
R2-5-208	New Section
R2-5-210	Amend
R2-5-211	Amend
R2-5-213	Amend
Article 6	Repeal
R2-5-601	Repeal
R2-5-602	Repeal
R2-5-603	Repeal
R2-5-604	Repeal
R2-5-605	Repeal

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 41-763(6)

Implementing statutes: A.R.S. §§ 41-783(2), 41-783(4), 41-783(5), 41-783(6), 41-783(7), 41-783(8), 41-783(9), 41-783(10), 41-783(11), 41-783(12), 41-783(13), 41-783(18), 41-783(19), 41-783(23)

3. A list of all previous notices appearing in the Register addressing the proposed rule:

None

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Thomas Michael, Human Resources Generalist

Address: 1831 W. Jefferson, Room 137
Phoenix, Arizona 85007

Telephone: (602) 542-4897

Arizona Administrative Register
Notices of Proposed Rulemaking

Fax: (602) 542-2796

5. An explanation of the rule, including the agency's reasons for initiating the rule:

The proposed rulemaking is to amend Article 2, repeal Article 6 and incorporate the provisions of Article 6 in Article 2 since they are directly related to employment. The proposed rules contain changes to the employment provisions that integrate the current methodology to attract, employ, and retain competent personnel in the state service. The rules are also being amended to identify the knowledge, skills and abilities in the class specification or position description questionnaire as the qualifications necessary for appointment to a position. Further, the amendments include statutory changes to residency requirements, granting of preference to qualified applicants, establishing time periods for original and promotional probation, and that an agency may provide reimbursement of reasonable relocation expenses to a current employee for a management-initiated geographical transfer of more than 50 miles. The changes to these rules also reflect the work of the Personnel Rules Review Committee (PRRC) and include clarification and stylistic changes.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The rules directly affect state service employees and candidates for state service through procedures that provide employment. The result would have an economic impact by providing discretionary income and could impact consumers based upon the quality of services that are provided. The extent of the impact as measured in financial terms cannot be projected due to the unknown amount of funds that could be allocated for state service positions. Small business will not be impacted.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Claudia R. Smith, Communications/Employee Relations Manager
Address: 1831 W. Jefferson, Room 128
Phoenix, Arizona 85007
Telephone: (602) 542-4894
Fax: (602) 542-2796

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: August 23, 2000
Time: 1:30 p.m. and 5:30 p.m.
Location: Grand Canyon Room
West Wing Basement
1700 W. Washington
Phoenix, Arizona 85007
Nature: Oral Proceeding

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION

PERSONNEL ADMINISTRATION

ARTICLE 2. EMPLOYMENT

R2-5-201. ~~Employment~~ Hiring Process
R2-5-202. Recruitment
R2-5-203. ~~Examinations~~ Applicant Assessment and Evaluation
R2-5-204. ~~Registers~~ Human Resources Employment Database
R2-5-205. ~~Certification and selection~~ Identification and Selection of Candidates
R2-5-206. Appointment
R2-5-207. Employment of ~~relatives~~ Relatives
R2-5-208. ~~Reserved~~ Changes in Assignment
R2-5-210. ~~Student employment~~ Repealed
R2-5-211. Clerical ~~placement~~ Placement
R2-5-213. Probation

~~ARTICLE 6 CHANGES IN ASSIGNMENT~~

~~R2-5-601. Promotion~~
~~R2-5-602. Transfer~~
~~R2-5-603. Detail to special duty~~
~~R2-5-604. Mobility assignments~~
~~R2-5-605. Voluntary grade decrease~~

ARTICLE 2. EMPLOYMENT

R2-5-201. Employment Hiring Process

- A.** General. The state of Arizona employment process shall ensure open competitive practices in recruitment, selection and placement of qualified candidates, based on the merit of the candidate's knowledge, skills and abilities, and overall qualifications as well as fitness for employment with the state of Arizona.
- ~~AB.~~** Waiver of rules. If the Director determines that essential public services are being hampered by critical employment needs for a specific class or classes, the Director may implement appropriate temporary procedures to satisfy those needs. Such procedures may include waiving or revising provisions of Article 2 of these rules but shall ensure that employees are selected on the basis of merit and fitness.
1. The Director may:
 - a. Waive any rule under Article 2, not restricted by law; and
 - b. Implement temporary procedures;
 2. The Director shall ensure that employees are selected on the basis of merit and fitness.
- ~~B.~~** Duration. Temporary procedures authorized by this rule may be implemented for an initial period of not more than six months. The Director may approve an extension not to exceed an additional 12 months. The initial period and any extensions shall not exceed a total of 18 months.

R2-5-202. Recruitment

- A.** Filling of vacancies. All vacancies in the state service, which are not filled
1. Except as otherwise provided in by these rules, all vacancies in state service shall be filled through open competitive recruiting.
 2. Arizona residency is not required for state service.
 3. Vacancies for positions governed by state service personnel rules shall be filled through:
 - a. The use of the Human Resources Employment Database; or
 - b. An alternative procedure of filling vacancies based on the uniqueness of the operation or critical employment needs.
 4. The Director may refuse to evaluate or test anyone who cannot be located by mail sent to the last known address, telephone call to the last known number or by contacting the last known electronic device address.
- B.** Public notice. ~~Open competitive vacancies shall be announced publicly for not less than five calendar days prior to closing, with an opening and closing date. Public notice shall consist of posting announcements at the Personnel Division offices and by providing information on vacancies to agencies and the Department of Economic Security. Reemployment.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

An agency shall consider for appointment a reemployment candidate who meets the required knowledge, skills and abilities prior to implementing other recruitment actions. A reemployment candidate is eligible to fill a vacancy in any state agency.

- C. ~~Content of announcement.~~ The public announcement of vacancies shall specify the official title, salary, typical duties to be performed or where this information may be obtained, minimum qualifications, any special qualifications, the final date for receipt of applications or a statement of open continuous application, the method of application, the type of examination, the examination dates, and the expiration date of the register. Vacancy announcements.
1. The Director shall establish a vacancy announcement procedure for recruitment of open competitive vacancies in state service employment.
 2. The Director may authorize the use of resumes, applications or alternative forms that provide the information for analyzing an applicant's knowledge, skills and abilities for employment.
- D. ~~Applications.~~
1. ~~All applications shall be on Standard Form 500, Employment Application, incorporated by reference herein and on file in the Office of the Secretary of State. Applications must be filed at the Personnel Division offices or as otherwise designated in the announcement on or before the filing date specified in the announcement or postmarked by midnight on that date. Applications for open continuous position vacancies may be filed at any time~~
 2. ~~Applications shall be confidential and may be reviewed only by the applicant, an individual who has written authorization from the applicant, state officials in the normal line of duty, or officials acting in response to court orders or subpoenas.~~ Administration. The Director shall establish procedures for maintenance and confidentiality of all resumes, applications, tests, test results, records, and other documents or correspondence used to seek employment in state service. The procedures shall restrict the review of any application material to the applicant, an individual who has written authorization from the applicant, state officials in the normal line of duty, or officials acting in response to court orders or subpoenas.
- E. ~~Promotional announcements.~~ ~~Promotional announcements shall meet the time and content requirements of subsections (B) and (C) and shall be distributed to or within agencies as appropriate.~~

R2-5-203. Examinations Applicant Assessment and Evaluation

- A. ~~General.~~ The Director shall conduct open competitive examinations for entrance into the state service for applicants who meet the qualifications for examinations. Competitive evaluations. The Director shall establish open competitive evaluation procedures to be used for entrance into state service.
- B. ~~Qualifications.~~ ~~Applicants must meet the minimum qualifications in the class specifications and the examination announcements. Provisions for the substitution of related experience, education, or other qualifications for specific education and/or experience requirements may be made in specific announcements for particular positions even though these provisions are not part of the class specification. Applicants must be residents of the state of Arizona unless residency is waived by the Director, or except as otherwise provided by law. All applicants must possess good character and physical and mental ability to perform successfully the duties of the position.~~ Criteria for evaluation. The basis for evaluation shall be the knowledge, skills and abilities required for the position as identified in the class specification or the position description questionnaire. The same criteria shall be used to evaluate all applicants for a position. The Director may authorize the substitution of related knowledge, skills and abilities for particular positions even though these provisions are not part of the class specification. Applicants Individuals may be required to furnish, at their own expense, evidence of character, education, physical condition, or other qualifications that are job related.
- C. ~~Conditional eligibility.~~ Any applicant who does not meet the educational requirements for a position, but who will meet these requirements as a result of the completion of further education for which the applicant is scheduled for the then current school term, shall be allowed to take the examination. The name of a successful applicant taking the examination under this provision shall be entered on the register in the same manner as other successful applicants, and the applicant may be certified for appointment. If appointed, the applicant must furnish the Director acceptable evidence of qualifications before the effective date of the appointment. Failure to complete the required educational work will cause the removal of the applicant's name from the register or the cancellation of the appointment. Assessments and evaluations. The Director shall establish an evaluation procedure to determine a person's ability to perform the duties and responsibilities of the position or classification for which the person is being considered for employment. An agency shall not administer any ~~examination~~ assessment evaluation technique or any combination of techniques other than job related selection interviews without prior written approval from the Director. Any deviation from this provision shall require prior approval from the Director.
- D. ~~Types and content of examinations.~~
1. ~~Examinations shall be designed to reveal the ability to perform the particular type of work for which the applicant has applied.~~
 2. ~~An agency shall not administer any examination other than job related selection interviews without prior written approval from the Director.~~
- D. Notice of examination results. Written and performance test results.

Arizona Administrative Register
Notices of Proposed Rulemaking

1. The Director shall send written notice of ~~examination~~ written and performance test results to each applicant after the rating scoring has been completed.
- F.** ~~Inspection of examination.~~
 2. ~~An~~ applicants may inspect ~~tests or evaluation papers in order to determine if the applicant's~~ their answers for any written test in order to determine if they are the same as the answers shown on the scoring key for that test. An applicant shall requests for this an inspection ~~must be made~~ in writing within 1 month after notice of the score has been sent to the applicant. Only the applicant or the applicant's representative ~~The authority to~~ may inspect the test answers ~~applies only to the applicant or the applicant's representative.~~ An applicant's representative ~~must~~ shall have provide written authorization from the applicant to inspect the test answers.
 3. An applicant may retake a performance test. An applicant may not retake a written test for a period of 2 months after the prior test. In case of a retaken test, the most recent test score shall be used for evaluation.
 4. Tests are not required for reinstatement or reemployment unless the Director determines that the requirements of the class have changed or are different from the class from which the applicant separated.
- G.** ~~Adjustment of errors. The Director shall correct any manifest error in the rating of an examination; provided, however, that any such correction shall not invalidate any certification or appointment of any other applicant previously made.~~
- H.** ~~Retaking examinations.~~
 1. ~~Performance examinations or tests of skills may be retaken within reasonable limits of scheduling.~~
 2. ~~Upon written request of an applicant, the applicant's training and experience shall be reevaluated and a score adjusted if warranted.~~
 3. ~~Written tests may not be retaken for a period of two months after the last examination. In each case of a repeated written test, the most recent test score shall be used. If the applicant or the applicant's representative has inspected the written test, the test may not be retaken for a period of two months after the inspection.~~
- I.E.** ~~Preference points. Preference points authorized by A.R.S. § 38-492 will~~ shall be added to ~~any~~ an applicant's score on any assessment or evaluation that results in a numeric score after the final rating is determined, provided that a passing grade or rating is earned without the addition of such preference points. Such preference points shall not be applied to promotional examinations. When an evaluation does not result in a numeric score, preference shall be given by granting applicable preference codes to qualified applicants.
- J.** ~~Testing for reinstatement or reemployment. Tests are not required for reinstatement or reemployment unless the Director determines that the qualifications in the class specifications are substantially different from the class from which the applicant separated.~~

R2-5-204. Registers Human Resources Employment Database

- A.** ~~Responsibility. The Director shall establish and maintain registers as required to fill vacancies.~~
- B.** ~~Content of registers. After each examination, the Director shall prepare a register, or merge the names of new candidates with those on an existing register, in the order of the final scores of each candidate.~~
- C.** ~~Duration of register. A register shall expire as provided in the official announcement and notice of examination unless the register is specifically extended or abolished by the Director. An expired or abolished register may be reactivated to resolve recruitment problems when in the best interests of the state service.~~
- D.** ~~Related registers. If a vacancy exists in a class for which there is no register, the Director may prepare a register for the class from one or more existing related registers.~~
- E.** ~~Repromotion registers.~~
 1. ~~An employee with permanent status who has been reduced in grade as a result of a reduction in force is entitled to be placed on a repromotion register within the agency for the class in which permanent status was held immediately prior to the reduction in grade or any intervening class. The name of the employee shall remain on the repromotion register for two years from the effective date of the reduction of the employee.~~
 2. ~~An employee on the repromotion register shall be offered a vacant position in the class from which reduced or in any intervening class. An employee who accepts a position in an intervening class shall remain on the repromotion register for the balance of the two years. The name of an employee who fails to accept a repromotion to the class from which reduced shall be removed from the repromotion register.~~
 3. ~~If more than one employee is eligible for repromotion to a class, the vacancy shall be offered to the employee with the highest number of retention points at the time the repromotion is offered.~~
- F.** ~~Reemployment registers. An employee with permanent status who has been separated as a result of a reduction in force is entitled, upon written application, to be placed on the reemployment register for classes for which qualified at the same or lower grade as that in which permanent status was held within one year immediately preceding the separation. The name of the employee shall remain on the reemployment register for two years from the effective date of the separation of the employee.~~
- G.** ~~Promotion registers. Applicants who have obtained permanent status, meet the necessary minimum requirements, and have passed the appropriately announced promotional examination, if any, will be placed on a promotional register in the order of their relative ratings.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

H. Reinstatement registers.

1. ~~An employee with permanent status who has resigned or been separated in good standing is entitled, upon written application, to be placed on a reinstatement register for referral for classifications for which qualified in the same or lower grade as that in which permanent status was held within one year immediately preceding the separation. The name of the employee shall remain on the reinstatement register for two years from the effective date of the separation of the employee.~~
2. ~~A former employee eligible for reinstatement may accept any type of appointment to a position of a lower grade than the employee's permanent grade without jeopardizing reinstatement rights to the permanent grade.~~
3. ~~A former employee eligible for reinstatement may accept a seasonal, temporary, clerical pool, or limited appointment to a position at the same grade as, or at a higher grade than, the employee's permanent grade without jeopardizing reinstatement rights to the permanent grade.~~

I. Order of use of registers. In filling vacancies in the state service from a register, the following order of preference shall be used:

1. ~~The Repromotion Register.~~
2. ~~The Reemployment Register.~~
3. ~~The Promotional Register.~~
4. ~~Either the Reinstatement Register or a combination of the Reinstatement Register and the Open Competitive Register.~~

J. Removal of names from registers. In addition to the reasons cited in A.R.S. § 41-769, the Director shall refuse to examine or certify as eligible anyone who:

1. ~~Accepts a probationary appointment to a position in the state service, provided, however, that the name of the applicant shall not be removed from any other register with a higher salary grade.~~
2. ~~Refuses or rejects an offer of probationary employment to the class for which the register was established.~~
3. ~~Has twice declined to be considered for classifications for which qualified at the same class in the same agency.~~
4. ~~Has been considered by an agency and has been found to be unsuitable for employment in that class within the agency for job related reasons.~~
5. ~~Cannot be located despite reasonable efforts by the agency or the Department.~~

K. Notification of removal from or abolishment of registers. When a register is abolished or any candidate is removed from a register in accordance with subsection (J) above, all candidates removed shall be notified of such abolishment or removal. The Director shall establish and maintain the Human Resources employment database to fill state service vacancies. The database shall be the primary source for applicant tracking and candidate identification. The Director may approve other methods for applicant tracking and candidate identification to meet special agency requirements.

R2-5-205. Certification and selection Identification and Selection of Candidates

A. Certification of candidates. Upon receipt of an agency's request, the Director shall send a hiring list to the agency containing the names of available candidates in the order of their relative excellence on the examination. For a single vacancy, the Director shall send the names of the seven candidates with the highest final ratings or a lesser number of candidates if fewer than seven names are contained on the register. If fewer than three candidates are available, they shall be certified if requested by the agency. For multiple vacancies, the Director shall refer one additional name for each additional vacancy. The Director shall also certify the names of all qualified applicants for reinstatement or transfer. The Director shall provide referral lists to be used by the agency that contain the names of available candidates who possess the knowledge skills and abilities identified for the position.

B. Duration of certification. The period during which action may be taken on a hiring list shall be determined by the Director, giving consideration to the area, type of position, and other factors. This period may be extended by the Director. Referral list. An agency may request an external or an internal state service referral list.

1. An internal state service referral list may contain:

- a. Only repromotion candidates;
- b. Original probation and permanent status employees;
- c. All employees currently employed in the agency;
- d. Only permanent status employees in a state service position in the agency;
- e. Employees who have attained permanent status in any state service agency; or
- f. Any combination of the above.

2. An external referral list may contain any combination of qualified candidates.

3. Repromotion

- a. An employee with permanent status who has been reduced in grade as a result of a reduction in force is entitled to be considered within the agency for the class in which permanent status was held immediately prior to the reduction in grade or any intervening class. The name of the employee shall be considered for 2 years from the effective date of the reduction in grade of the employee.
- b. An employee eligible for repromotion shall be offered a vacant position in the class from which reduced or in any intervening class. An employee who accepts a position in an intervening class shall continue to be consid-

Arizona Administrative Register
Notices of Proposed Rulemaking

ered for the balance of the 2 years. The name of an employee who fails to accept a repromotion to the class from which reduced shall not be considered for repromotion.

- c. If more than 1 employee is eligible for repromotion to a class, the vacancy shall be offered to the employee with the highest number of retention points at the time the repromotion is offered.

4. Reemployment. A reemployment applicant upon written application, may be considered for 2 years from the effective date of the separation for classes for which qualified at the same or lower grade as the class in which permanent status was held.
5. Reinstatement. A reinstatement applicant, upon written application, may be considered for 2 years from the effective date of the separation for classes for which qualified at the same or lower grade as the class in which permanent status was held.

~~C.~~ Selective Certification-

1. ~~The Director may make a selective certification of candidates to an agency when the vacancy is for a position requiring job related specialized qualifications.~~
2. ~~The Director may make a local certification of candidates to an agency when a vacancy is outside the metropolitan Phoenix area, limiting the hiring list to those candidates who reside within the geographical area, or within 50 road miles, of the location of the vacancy, except that former employees eligible for reemployment or reinstatement shall be certified regardless of residence. The geographical area is one of the areas into which the state is divided by the Director for the purpose of certification.~~

~~D.~~ Random certification. ~~If there are 15 or more candidates with the same score to be certified under these rules, certification may be done on a random basis. Persons certified on this basis shall not be recertified until all others with the same final rating have been certified.~~

~~E.~~C. Selection.

1. An agency head may non-competitively select any qualified reemployment, repromotion, reinstatement, voluntary decrease or transfer candidate to fill the position.
2. If the agency head does not select a reemployment, repromotion, reinstatement, voluntary decrease or transfer candidate, ~~it must interview a minimum of three candidates, if available, before making a selection, except as provided in paragraph (3) below.~~ the agency head shall interview a minimum of 3 candidates if available to support a competitive selection process before making a selection. These candidates may include any combination of reinstatement, transfer, or competitive candidates. For multiple vacancies, the agency must interview one additional candidate for each additional vacancy.
3. ~~The agency may select the single candidate with the highest rating directly from the register without certification upon request of the agency head and prior approval of the Director.~~
4. ~~All interviews shall be conducted in person unless a candidate resides 50 or more miles from the interview site in which case the interview may be conducted by telephone.~~
53. The Director or an agency head ~~may~~ shall establish procedures to check references ~~and or~~ investigate a candidate's background, education, or work history as appropriate for the position. ~~If the results of these checks and investigations bring out information that might affect the rating in any examination, the rating may be adjusted by the Director.~~

~~F.~~ Confidentiality of records. ~~The Director shall maintain the confidentiality of all examinations and records pertinent to selection and examination programs.~~

~~G.~~D. Complaints. ~~Applicants~~ A candidate who ~~have~~ has a complaint or recommendation relating about to the procedures procedure used in the selection or evaluation process shall forward ~~those the~~ complaints complaint or recommendation to the ~~Personnel Division~~ agency human resources representative. The agency representative shall evaluate the complaint or recommendation and notify the candidate of the action to be taken.

R2-5-206. Appointment

A. Original probationary appointment. ~~An original probationary appointment shall be made from a register or by conversion.~~ General. An agency shall use a Human Resources Employment Database referral list to make an appointment to a position in the state service unless otherwise indicated in these rules.

B. Limited appointment. Types of appointments.

1. ~~A limited appointment shall be made from a register or by conversion.~~ Regular Appointment. A regular appointment employee who successfully completes an original probation period shall acquire the rights of permanent status.
2. Limited appointment. A limited-appointment employee who successfully completes an original probationary period shall acquire all rights of permanent status except reduction in force, reemployment, and reinstatement. If the limited appointment expires, is unfunded, or is eliminated, the limited appointment employee shall be dismissed without the right of appeal.
- a. ~~An A limited-appointment employee who has achieved limited permanent status~~ may be considered for transfer, promotion, or demotion to ~~permanent~~ a regular positions position ~~provided the original appointment was from a~~ competitive list. The limited-appointment employee who is appointed to a permanent position shall serve a six-

Arizona Administrative Register
Notices of Proposed Rulemaking

~~month original probationary period, except as provided in R2-5-213 (B). The employee shall not have the right to return to the limited position if any required probationary period in the permanent position is unsuccessful.~~

- ~~b. A limited appointment employee who is promoted or is transferred to a regular position shall serve an original probationary period.~~

~~C.3. Temporary appointment. A temporary appointment shall be made from a register or by verification of minimum qualifications in the absence of a register. The appointment may be extended for not more than three months by the Director, shall be for a reoccurring period of time up to a maximum of 1500 hours in any 1 position per agency each calendar year.~~

D. Seasonal appointment.

- ~~1. A seasonal appointment shall be made from a register or by verification of minimum qualifications in the absence of a register.~~
- ~~2. A person who receives a seasonal appointment from a register is eligible for successive seasonal appointments to the same class without re-examination or recertification.~~
- ~~3. Seasonal employees are limited to a maximum of 1500 hours of employment per calendar year per agency.~~

E. Conversion of appointment. ~~A seasonal or temporary employee who was appointed competitively and who has been employed for 1040 hours or more may be transferred by conversion to a permanent or limited position in the same class. A converted employee is required to serve an original probationary period in the permanent or limited position.~~

F. 4. Provisional appointment.

- ~~1.a. No provisional appointment shall continue beyond the reporting date of any candidate selected from a referral list, beyond the expiration date of any valid referral list, or for more than 6 months.~~
- ~~2.b. Successive provisional appointments of the same person to the same class in the same agency shall not be made.~~

G. 5. Emergency appointment. ~~An emergency appointment~~ Appointments shall be at the discretion of the agency head with the approval of the Director.

~~1.a. An emergency appointment shall not exceed 240 hours or more than 30 working days.~~

~~2.b. An agency shall not make successive appointments of the same person to the same class in the same agency shall not be made.~~

H. 6. Clerical pool appointment.

~~1.a. The Director may establish a clerical pool in any locality where there is a demand for temporary clerical help.~~

~~2.b. Clerical pool appointments may be made for up to 6 months by an agency head and may be extended for not more than three months by the Director.~~

7. Student employment. ~~The Director may establish special procedures for the employment of students. An agency may employ a student for a maximum of 1040 hours in a calendar year.~~

R2-5-207. Employment of ~~relatives~~ Relatives

- A. Relationship to supervisor.** An individual shall not be appointed or promoted to a position if the immediate supervisor of the individual is related within the third degree of affinity (marriage) or consanguinity (blood).
- B. Relationship to other employees.** An individual shall not be appointed or promoted to a position if an employee related within the third degree of affinity or consanguinity currently occupies a position under the same immediate supervisor.
- C. Exceptions.** The Director may grant exceptions to the prohibitions in ~~subsections~~ (A) and (B) if there are no other qualified candidates for the position at the location.
- D. Definition.** For the purpose of this rule, persons related within the third degree shall include a spouse, child, and a parent, grandchild, grandparent, sister, brother, great grandchild, great grandparent, aunt, uncle, niece, or nephew who are related to the employee by marriage or blood.

R2-5-208. Changes in Assignment

A. Promotion.

1. State service promotions shall be competitive.
2. An internal state service referral list may contain:
 - a. Original probation and permanent status regular and limited employees;
 - b. All employees currently employed in the agency;
 - c. Only permanent status regular and limited employees in a state service position in the agency;
 - d. Employees who have attained regular and limited permanent status in any state service agency; or
 - e. Any combination of the above.
3. Criteria for evaluation. The basis for evaluations shall be the knowledge, skills and abilities required for the position as identified in the class specification or the position description questionnaire. The same criteria shall apply to all applicants for a position.

B. Transfer.

1. Intra-agency transfer.
 - a. An agency head may transfer an employee to a position in the same pay grade.

Arizona Administrative Register
Notices of Proposed Rulemaking

- b. An agency head upon the request of an employee may transfer the employee to a position in the same pay grade.
 - 2. Interagency transfer. Upon the request of an employee, the employee may transfer to a position in the same pay grade in another state service agency, with the approval of the gaining agency head.
 - 3. Qualifications. An employee shall possess the knowledge, skills and abilities required for the position as identified in the class specification or the position description questionnaire for the position to which transferred.
 - 4. Transfer of function.
 - a. Between state service agencies. If part or all of the functions of an agency are transferred to another agency, all employees in the positions affected shall be transferred to the gaining agency.
 - b. From non-state service agencies. If part or all of the functions of a non-state service agency are transferred to the state service, all of the affected employees of the agency may be offered state service employment on a non-competitive basis in the transferred functional area. An agency head may require a transferred employee to serve an original probationary period.
- C. Special detail.
 - 1. General. An agency head may assign a permanent status employee to special detail to a covered position within the agency.
 - a. Short-term special detail. A special detail of up to 6 months may be made non-competitively.
 - b. Long-term special detail. A special detail made for a period of more than 6 months not to exceed 12 months shall be competitive in accordance with these rules, unless the Director approves a non-competitive detail.
 - 2. Qualifications. An employee is not required to possess the precise knowledge, skills and abilities of the position to be assigned to a special detail.
 - 3. Return from special detail. At the end of the detail the employee shall return to the position previously held, if vacant. If the position is not vacant, the employee shall return to a position in the same class held prior to the detail.
 - 4. Extensions. A special detail shall not exceed 12 months unless extended by the Director.
- D. Mobility assignments
 - 1. State service employees. An employee with permanent status in the state service may accept a mobility assignment to an uncovered position or to a position in another Arizona state agency, for not more than 36 months with the concurrence of the Director, the employee, the agency in which employed, and the agency to which the employee would be assigned. The employee shall have the right to return to a position in the original agency for which the employee possesses the knowledge, skills and abilities in the same pay grade held prior to the mobility assignment.
 - 2. Extension. The Director, the employee, the employing agency and the agency from which the employee came shall renegotiate a mobility assignment extension beyond 36 months.
- E. Voluntary grade decrease
 - 1. Request. An employee may request a permanent change in assignment to a position with a lower pay grade. The employee shall possess the knowledge, skills and abilities required of the new position. An employee is not eligible to appeal an approved voluntary pay grade decrease.
 - 2. Probation. An employee on original probation shall be required to serve a new original probation in the new position.
- F. Relocation. The agency may reimburse reasonable relocation expenses to a current employee for a management-initiated geographical transfer of more than 50 miles from the employee's current work site.

R2-5-210. Student employment Repealed

~~The Director may designate the use of special procedures for the employment of students. Any such special procedure for a particular class or classes will be outlined in the examination announcement for student employment. The Director, or agency head, may designate the use of special procedures for the employment of students.~~

R2-5-211. Clerical Placement

Applicants for classifications in the clerical occupational series may be interviewed by an agency upon the referral of candidates by the Director. The Director shall refer the applicants based upon their merit and fitness for the particular vacancy. The agency, upon such referral ~~and without a hiring list,~~ may interview any or all applicants and hire whichever applicant the agency prefers.

R2-5-213. Probation

- A. Types of probation. Original probation and promotional probation are the only types of probation allowed in the state service. ~~are original probation and promotional probation.~~
- B. Credit for prior service. Upon the request of an An agency head may credit up to 6 months of state service that was completed immediately prior to a probationary appointment in the same class, provided that such service was achieved under the same program of orientation, training, and evaluation applied to other probationary employees at the time of appointment. ~~This provision for crediting prior service does not apply to employees converted to a permanent or limited position.~~
- C. Original probation.

Arizona Administrative Register
Notices of Proposed Rulemaking

1. Duration. An original probationary period is 6 months. Upon request of an agency head, the Director may establish a longer or shorter period for any class of positions in the agency. In no case ~~will~~ shall the probationary period ~~estab-~~
~~lished~~ for a class be less than 90 days or more than 1 year.
 2. Extensions.
 - a. An agency head may extend ~~an employee's probationary period~~ original probation up to 6 months for job
employment related reasons. Such an employee's probation may exceed 1 year in the aggregate.
 - b. The probationary period shall be extended for any corresponding period for which a probationary employee is on
leave without pay for more than 80 consecutive working hours. Such an employee's probation may exceed 1 year
in the aggregate
 3. Completion of probation.
 - a. ~~The agency head~~ A supervisor shall evaluate a probationary employee and submit a report to the ~~Director~~ agency
head ~~at least 15 days~~ prior to the expiration of the employee's probationary period. ~~unless the agency head sup-~~
~~plies to the Director, in writing, justification for a period of time less than 15 days.~~ If the agency head takes no
action ~~is taken by the agency head~~ to extend the probationary period or to terminate the employee, the ~~employee~~
agency head ~~shall be awarded grant~~ permanent status to the employee upon the completion of the probationary
period.
 - b. If ~~the an~~ agency head determines at any time during an original probationary period that the services of ~~the a~~ pro-
bationary employee are no longer required in that position for any reason or for no reason ~~the employee may be~~
~~offered a voluntary grade decrease or be dismissed,~~ the agency head:
 - i. May offer the employee another position for which the employee possess the required knowledge, skills and
abilities; or
 - ii. Shall dismiss the employee without a stated reason and without the right of appeal; and,
 - iii. ~~The agency head~~ Shall furnish the employee a ~~copy of the~~ letter of dismissal. ~~the employee may be offered a~~
~~voluntary grade decrease.~~
 4. An original probation employee who is selected for another state service position shall serve an original probation
period in the new position.
- D. Promotional probation.**
1. ~~An~~ A permanent status employee who is promoted shall serve a promotional probationary period ~~under the same~~
~~rules as an original probation, except for subparagraph (C)(3)(b) above.~~ of 6 months. An agency head may extend the
probation up to a total of 1 year for employment related reasons.
 2. A limited appointment employee on original probation who is promoted or is transferred to a regular position shall
serve an original probationary period.
 23. If ~~An~~ an employee ~~who~~ fails to successfully complete a promotional probation:
 - a. An agency head shall revert the employee to a ~~vacancy~~ vacant position in the current employing agency in the
class in which the employee held permanent status ~~was held~~ immediately prior to the promotion; or
 - b. An agency head may offer the employee a similar position in another class at the same grade as the class that the
employee holds permanent status if the employee meets the knowledge, skills and abilities of that position.
 4. ~~A reversion~~ Either subsection (D)(2)(a) or (b) shall not preclude the imposition of any disciplinary action.
 5. An employee who is reverted to a position in the same class or transferred to a position in another class shall not have
the right to appeal.
 6. If ~~such~~ a vacancy does not exist in the agency, the rules governing reduction in force shall apply.
 37. An employee who is repromoted shall not be required to serve a probationary period.
- E. Reinstatement and reemployment.**
1. ~~When an employee is reinstated or reemployed~~ An an agency head:
 1. ~~may~~ May require a former employee ~~who is reinstated or reemployed~~ to complete an original probation.
 2. ~~An agency head shall~~ Shall require a former employee who is reinstated or reemployed in a class other than a class
the employee has previously held to complete an original probation.
- F. Demotion.** ~~Except as otherwise provided in these rules, a demoted employee shall not be required to serve a probationary~~
~~period in the position to which demoted.~~

ARTICLE 6. CHANGES IN ASSIGNMENT REPEALED

R2-5-601. Promotion

- A. General.** All promotions shall be competitive unless the Director approves a non-competitive promotion as being in the
best interests of the state service.
- B. Qualifications.** An employee shall not be promoted unless:
1. The employee has attained permanent status in the state service or will attain it by the closing date of the competitive
announcement. For open continuous announcements, the employee must attain permanent status on or before submit-
ting an application; and,

Arizona Administrative Register
Notices of Proposed Rulemaking

2. The employee meets the minimum qualifications for the class.

~~R2-5-602. Transfer~~

- ~~A.~~** Intra-agency transfer. An agency head may transfer an employee to a position in the same pay grade.
- ~~B.~~** Interagency transfer. Upon the request of an employee, the employee may transfer to a position in the same pay grade in another state service agency, with the approval of the head of the gaining agency.
- ~~C.~~** Qualifications. A transferred employee must meet the minimum qualifications for the class to which transferred.
- ~~D.~~** Limitation. An employee appointed to a position through selective certification shall not be transferred from that position during the probationary period without the prior approval of the Director.
- ~~E.~~** Transfer of function:
1. Between state service agencies. If part or all of the functions of an agency are transferred to another agency, all employees in the positions affected shall be transferred to the gaining agency.
 2. From non-state service agencies. If part or all of the functions of a non-state service agency are transferred to the state service, all of the affected employees of the agency shall may be offered state service employment on a non-competitive basis in the functional area transferred. Any of these employees who have not completed six months of related experience shall serve a 90-day original probationary period under the rules set forth in R2-5-213(C)(2) and (3).

~~R2-5-603. Detail to special duty~~

- ~~A.~~** General. An agency head may detail a permanent status employee to special duty to a covered position in the same or another class within the agency as provided below:
1. If the detail is for 4 months or less, the detail may be made non-competitively.
 2. If the detail is for more than 4 months the detail shall be made competitively in accordance with these rules, unless the Director approves a non-competitive detail.
- ~~B.~~** Duration. The length of the detail shall not exceed one year, unless extended by the Director.
- ~~C.~~** Return from detail. An employee shall have the right to return to the position from which detailed at the conclusion of the detail.

~~R2-5-604. Mobility assignments~~

- ~~A.~~** State service employees. An employee with permanent status in the state service may accept a mobility assignment to an uncovered position, to another Arizona state agency, or to another government jurisdiction for not more than 36 months with the concurrence of the Director, the employee, the agency in which employed, and the agency or jurisdiction to which the employee would be assigned. The employee shall have the right to return to a position in the agency in the employee's former class, with the same status held prior to the mobility assignment.
- ~~B.~~** Non-state service employees. An employee from another government jurisdiction may serve a mobility assignment in the state service for not more than 36 months, with the concurrence of the Director, the employee, the employee's present employer, and the state agency to which the employee would be assigned.
- ~~C.~~** Extension. An employee serving in a mobility assignment may be extended beyond thirty-six months with the approval of the Director, the employee, the employing agency or jurisdiction, and the agency or jurisdiction from which the employee came.

~~R2-5-605. Voluntary grade decrease~~

- ~~A.~~** Request. An employee may request a permanent change in assignment to a position in a lower pay grade, provided the employee meets the minimum qualifications for the class of the position. Such request, if approved, may not be grieved.
- ~~B.~~** Probation. An employee who is on original probation when the request for a voluntary grade decrease is approved shall serve a complete original probation in the new position.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

1. Sections Affected

R4-23-110
R4-23-408

Rulemaking Action

Amend
Amend

Arizona Administrative Register
Notices of Proposed Rulemaking

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 32-1904(A)(1)

Implementing statute: A.R.S. § 32-1901(59)

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 5 A.A.R. 4534, December 3, 1999

4. The name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Dean Wright, Compliance Officer

Address: Board of Pharmacy
5060 N. 19th Ave., Suite 101
Phoenix, Arizona 85015

Telephone: (602) 255-5125, Ext. 131

Fax: (602) 255-5740

E-mail: rxcop@uswest.net

5. An explanation of the rule, including the agency's reasons for initiating the rule:

This rule was initiated to comply with the time frame requirements of A.R.S. § 41-1072. The rule adds new definitions for "computer system", "computer system audit", "CRT", "dispensing pharmacist", "sight-readable", "single-drug audit", and "single-drug usage report" to R4-23-110. The rule addresses format and style changes necessary under the current administrative procedures act and other necessary language changes to provide a clear, concise, and understandable document. The rule makes changes to R4-23-408 that address the minimum requirements for the use of a computer system to process, store, and retrieve original and refill prescription order information, and maintain patient profiles. The rule identifies the specific prescription order information necessary to meet the minimum requirements. The rule addresses the use of the computer system as a replacement for the hard copy refill prescription order information required in R4-23-402 and R4-23-407. The rule requires a computer system audit process to assure that a specific computer system can maintain accurate refill prescription order information and includes remedies for noncompliance. Instead of writing rules for time frames for computer certification, the decision was made by the Board to no longer certify pharmacy computer systems. A pharmacy may begin using a computer system to process, store, and retrieve original and refill prescription order information and maintain patient profiles. If a routine compliance inspection by Board compliance officer identifies a non-compliant pharmacy computer system, the rule provides remedies to establish recordkeeping compliance. The Board believes that approval of these rules will benefit the public health and safety by establishing minimum standards for the use of a computer system to process, store, and retrieve original and refill prescription order information and maintain patient profiles. The Board further believes that specific regulation and enforcement are necessary to regulate and control the use of rapidly evolving technology by pharmacists.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

Not applicable

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The rule increases protection of public health and safety by establishing minimum standards for the use of a computer system to process, store, and retrieve original and refill prescription order information and maintain patient profiles. In the last 20 plus years, the use of computer systems by pharmacies has gradually increased to where today it is very rare, fewer than 1% in Arizona, to find a pharmacy that does not use a computer system. A computer system provides many benefits to pharmacy and the public it serves. The foremost benefit is time. A computer system allows prescription processing and refill record accessing in less time than a manual system. A computer system provides better labels, better receipts, better patient and drug specific information for both the pharmacist and the consumer. Both pharmacist and patient have come to depend on the computer system. The rule deals with minimum standards for the use of a computer system in a pharmacy and benefits the Board of Pharmacy by promoting consistent compliance. Arizona pharmacies and pharmacists benefit because the rule is concise and compliance standards are crystal clear. Arizona citizens benefit by receiving a standard of care based on contemporary technology and rules. Although the

Arizona Administrative Register
Notices of Proposed Rulemaking

rule does not require the use of a computer system, fewer than 1% of Arizona pharmacies do not use a computer system, a pharmacy may need to upgrade their computer system to meet the minimum standards established by the rule. This is an obvious economic impact for those pharmacies. The rule has a grandfather clause to allow pharmacies with existing systems to continue to use the system under certain circumstances. Since the majority of the pharmacies in Arizona are chain pharmacies, the rule will actually have little economic impact. The chain pharmacies are on the cutting edge of the technology in pharmacy computer systems. The rule will have very little economic impact because the standards established for maintaining refill prescription order information have been in place since November 1983. The rule takes those standards and uses them to establish minimum standards for all computer systems. A pharmacy computer system that is already certified by the Board to comply with the existing rule for maintaining refill prescription order information will have no trouble complying with the amended rule. The Board will no longer certify computer systems. The rule establishes enforcement remedies for non-compliant systems. Instead of certifying a computer system before use, Board compliance officers will verify, after startup, a computer system's compliance with the standards established in rule.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Dean Wright, Compliance Officer
Address: Board of Pharmacy
5060 N. 19th Ave., Suite 101
Phoenix, Arizona 85015
Telephone: (602) 255-5125, Ext. 131
Fax: (602) 255-5740
E-mail: rxcop@uswest.net

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Comments may be written or presented orally. Written comments must be received by 5 p.m., Monday, August 7, 2000. An oral proceeding is scheduled for:

Date: August 7, 2000
Time: 10:00 a.m.
Location: 5060 N. 19th Ave., Suite 101
Phoenix, Arizona 85015

A person may request information about the oral proceeding by contacting the person listed above.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 1. ADMINISTRATION

Section

R4-23-110. Definitions

ARTICLE 4. PROFESSIONAL PRACTICES

Section

R4-23-408. Computer Requirements Records

ARTICLE 1. ADMINISTRATION

R4-23-110. Definitions

“Active ingredient” means any component that furnishes pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease or that affects the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug, that are present in the finished drug product in a modified form, and that furnish the specified activity or effect.

“Authentication of product history” means identifying the purchasing source, the ultimate fate, and any intermediate handling of any component of a radiopharmaceutical or other drug.

“AZPLEX” means an Arizona pharmacy law examination written and administered by the Board staff or a Board approved national pharmacy law examination written and administered in cooperation with NABP.

“Batch” means a specific quantity of drug that has uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.

“Beyond-use date” means a date determined by a pharmacist and placed on a prescription label at the time of dispensing to indicate a time beyond which the contents of the prescription are not recommended to be used.

“Biological safety cabinet” means a containment unit suitable for the preparation of low to moderate risk agents where there is a need for protection of the product, personnel, and environment, consistent with National Sanitation Foundation (NSF) standards, published in the National Sanitation Foundation Standard 49, Class II (Laminar Flow) Biohazard Cabinetry, NSF International P. O. Box 130140, Ann Arbor, MI, revised June 1987 edition, (and no future amendments or editions), incorporated by reference and on file with the Board and the Office of the Secretary of State.

“Class 100 environment” means an atmospheric environment in compliance with the Federal Standard 209 Clean Room and Work Station Requirements: Controlled Environment, publication FED-STD-209D, U.S. Government Services Administration 450 Golden Gate Avenue, San Francisco, CA, June 15, 1988 edition which includes January 28, 1991, changes, (and no future amendments or editions), incorporated by reference and on file with the of the Secretary of State.

“Community pharmacy” means any place under the direct supervision of a pharmacist where the practice of pharmacy occurs or where prescription orders are compounded and dispensed other than a hospital pharmacy or a limited service pharmacy.

“Component” means any ingredient used in compounding or manufacturing drugs in dosage form, including an ingredient that may not appear in the finished product.

“Computer system” means an automated data processing system that uses a programmable electronic device to store, retrieve, and process data.

“Computer system audit” means an accounting method, involving multiple single-drug usage reports and audits, used to determine a computer system’s ability to store, retrieve, and process original and refill prescription dispensing information.

“Container” means:

A receptacle, as described in the official compendium or the federal act, that is used in manufacturing or compounding a drug or in distributing, supplying, or dispensing the finished dosage form of a drug; or

A metal receptacle designed to contain liquefied or vaporized compressed medical gas and used in manufacturing, transfilling, distributing, supplying, or dispensing a compressed medical gas.

“Correctional facility” has the same meaning as in A.R.S. §§ 13-2501 and 31-341.

“CRT” means a cathode ray tube or other mechanism used to view information produced or stored by a computer system.

“Current good compounding practices” means the minimum standards for methods used in, and facilities or controls used for, compounding a drug to ensure that the drug has the identity and strength and meets the quality and purity characteristics it is represented to possess.

“Current good compounding practices” means the minimum standards for methods used in, and facilities or controls used for, compounding a drug to ensure that the drug has the identity and strength and meets the quality and purity characteristics it is represented to possess.

“Current good manufacturing practice” means the minimum standard for methods used in, and facilities or controls used for manufacturing, processing, packing, or holding a drug to ensure that the drug meets the requirements of the federal act as to safety, and has the identity and strength and meets the quality and purity characteristics it is represented to possess.

“Cytotoxic” means a pharmaceutical that is capable of killing living cells.

“Day” means a calendar day unless otherwise specified.

“Delinquent license” means a pharmacist or intern license the Board suspends for failure to renew or pay all required fees on or before the date the renewal is due.

Arizona Administrative Register
Notices of Proposed Rulemaking

“Dispensing pharmacist” means the pharmacist who, in the process of dispensing a prescription medication after the complete preparation of a prescription medication and before delivery of a prescription medication to a patient or patient’s agent, verifies, checks, and initials a prescription medication, as required in R4-23-402(A).

“Drug sample” means a unit of a prescription drug that a manufacturer provides free of charge to promote the sale of the drug. No person shall sell, purchase, or trade or offer to sell, purchase, or trade a drug sample.

“Extreme emergency” means the occurrence of a fire, water leak, electrical failure, public disaster, or other catastrophe constituting an imminent threat of physical harm to pharmacy personnel or patrons.

“FDA” means the Food and Drug Administration, a federal agency within the United States Department of Health and Human Services, established to set safety and quality standards for foods, drugs, cosmetics, and other consumer products.

“Inactive ingredient” means any component other than an “active ingredient” present in a drug.

“Internal test assessment” means performing quality assurance or other procedures necessary to ensure the integrity of a test.

“Limited-service correctional pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that:

Holds a current Board permit under A.R.S. § 32-1931;

Is located in a correctional facility; and

Uses pharmacists, interns, and support personnel to compound, produce, dispense, and distribute drugs.

“Limited-service mail-order pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and dispenses a majority of its prescription medication or prescription only devices by mailing or delivering the prescription medication or prescription only device to an individual by the United States mail, a common or contract carrier, or a delivery service.

“Limited-service nuclear pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and provides radiopharmaceutical services.

“Limited-service pharmacy permittee” means a person who holds a current limited-service pharmacy permit in compliance with A.R.S. §§ 32-1929, 32-1930, 32-1931, and A.A.C. R4-23-606.

“Long-term care consultant pharmacist” means a pharmacist providing consulting services to a long term care facility.

“Lot” means a batch or any portion of a batch of a drug, or if a drug produced by a continuous process, an amount of drug produced in a unit of time or quantity in a manner that assures it uniformity. In either case, a lot is identified by a distinctive lot number and has uniform character and quality with specified limits.

“Lot number” or “control number” means any distinctive combination of letters or numbers, or both, from which the complete history of the compounding or manufacturing, control, packaging, and distribution of a batch or lot of a drug can be determined.

“Materials approval unit” means any organizational element having the authority and responsibility to approve or reject components, in-process materials, packaging components, and final products.

“Mediated instruction” means information transmitted via intermediate mechanisms such as audio or video tape or telephone transmission.

“NABP” means National Association of Boards of Pharmacy.

“NABPLEX” means National Association of Boards of Pharmacy Licensure Examination.

“NAPLEX” means North American Pharmacist Licensure Examination.

“Outpatient” means a person who is not a residential patient in a health care institution.

“Outpatient setting” means a location that provides medical treatment to an outpatient.

“Patient profile” means a readily retrievable, centrally located information record that contains patient demographics, allergies, and medication profile.

“Pharmaceutical care” means the provision of drug therapy and other pharmaceutical patient care services intended to achieve outcomes, related to the cure or prevention of a disease, elimination or reduction of a patient’s symptoms, or arresting or slowing of a disease process, by identifying and resolving or preventing potential and actual drug-related problems.

“Pharmacy law continuing education” means a continuing education activity that addresses practice issues related to state or federal pharmacy statutes, rules, or regulations, offered by an Approved Provider.

“Prepackaged drug” means a drug that is packaged in a frequently prescribed quantity, labeled in compliance with A.R.S. §§ 32-1967 and 32-1968, stored, and subsequently dispensed by a pharmacist or a graduate intern or pharmacy intern under the supervision of a pharmacist, who verifies at the time of dispensing that the drug container is properly labeled, in compliance with A.R.S. § 32-1968, for the patient.

“Provider pharmacist” means a pharmacist who supplies medication to a long term care facility and maintains patient profiles.

Arizona Administrative Register
Notices of Proposed Rulemaking

“Radiopharmaceutical” means any drug that emits ionizing radiation and includes:

Any nonradioactive reagent kit, nuclide generator, or ancillary drug intended to be used in the preparation of a radiopharmaceutical, but does not include drugs such as carbon containing compounds or potassium containing salts, that contain trace quantities of naturally occurring radionuclides; and

Any biological product that is labeled with a radionuclide or intended to be labeled with a radionuclide.

“Radiopharmaceutical quality assurance” means the performance and interpretation of appropriate chemical, biological, and physical tests on radiopharmaceuticals to determine the suitability of the radiopharmaceutical for use in humans and animals. Radiopharmaceutical quality assurance includes internal test assessment, authentication of product history, and appropriate record retention.

“Radiopharmaceutical services” means procuring, storing, handling, compounding, preparing, labeling, quality assurance testing, dispensing, distributing, transferring, recordkeeping, and disposing of radiochemicals, radiopharmaceuticals, and ancillary drugs. Radiopharmaceutical services include quality assurance procedures, radiological health and safety procedures, consulting activities associated with the use of radiopharmaceuticals, and any other activities required for the provision of pharmaceutical care.

“Red C stamp” means a device used with red ink to imprint an invoice with a red letter C at least 1 inch high, to make an invoice of a Schedule III through IV controlled substance, as defined in A.R.S. § 36-2501, readily retrievable, as required by state and federal rules.

“Remodel” means to structurally alter the pharmacy area or location.

“Remote drug storage area” means an area that is outside the premises of the pharmacy, used for the storage of drugs, locked to deny access by unauthorized persons, and secured against the use of force.

“Resident” means a person admitted to and residing in a long term care facility.

“Score transfer” means the process that enables an applicant to take the NAPLEX in a jurisdiction and be eligible for licensure by examination in other jurisdictions.

“Sight-readable” means that an authorized individual shall be able to examine the record and read the information from the CRT, microfiche, microfilm, printout, or other method acceptable to the Board or its designee.

“Single-drug audit” means an accounting method that determines the numerical and percentage difference between a drug’s beginning inventory plus purchases and ending inventory plus sales.

“Single-drug usage report” means a computer system printout of new and refill prescription order usage information for a single drug.

“Sterile pharmaceutical product” means a dosage form free from living micro-organisms.

“Strength” means:

The concentration of the drug substance (for example, weight/weight, weight/volume, or unit dose/volume basis); or

The potency, that is, the therapeutic activity of a drug substance as indicated by bioavailability tests or by controlled clinical data (expressed, for example, in terms of unity by reference to a standard).

“Supervision” means a pharmacist shall be present, assume legal responsibility, and have personal oversight of activities relating to the acquisition, preparation, distribution, and sale of prescription medications by pharmacy interns or supportive personnel.

“Supplying” means selling, transferring, or delivering to a patient or a patient’s agent 1 or more doses of:

A nonprescription drug in the manufacturer’s original container for subsequent use by the patient, or

A compressed medical gas in the manufacturer’s or compressed medical gas distributor’s original container for subsequent use by the patient.

“Supportive Personnel” means individuals trained to perform, under the supervision of a pharmacist, activities related to the preparation and distribution of prescription medications consistent with policy and procedures required in R4-23-403.

“Transfill” means a manufacturing process by which 1 or more compressed medical gases are transferred from a bulk container to a properly labeled container for subsequent distribution or supply.

“Wholesale distribution” means distribution of a drug to a person other than a consumer or patient, but does not include:

Selling, purchasing, or trading a drug or offering to sell, purchase, or trade a drug for emergency medical reasons. For purposes of this Section, “emergency medical reasons” includes transferring a prescription drug by a community or hospital pharmacy to another community or hospital pharmacy to alleviate a temporary shortage;

Selling, purchasing, or trading a drug, offering to sell, purchase, or trade a drug, or dispensing a drug pursuant to a prescription;

Distributing a drug sample by a manufacturers’ or distributors’ representative; or

Selling, purchasing, or trading blood or blood components intended for transfusion.

Arizona Administrative Register
Notices of Proposed Rulemaking

“Wholesale distributor” means anyone engaged in wholesale distribution of drugs, including: manufacturers; repackers; own-label distributors; private-label distributors; jobbers; brokers; warehouses, including manufacturers’ and distributors’ warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies that conduct wholesale distributions in the amount of at least 5% of gross sales.

ARTICLE 4. PROFESSIONAL PRACTICES

R4-23-408. Computer Requirements Records

- A. As an alternative to the procedures set forth in R4-23-407, an automated data processing system (“system”) may be used for the storage and retrieval of refill information for prescription orders, patient profiles and drug interactions if the following conditions have been met:
1. ~~A system must provide for the retrieval (via CRT display or hard copy printout) of original prescription order information for those prescription orders which are currently authorized for refilling. Such information shall include, but not be limited to:~~
 - a. ~~Date of issuance of the original prescription order;~~
 - b. ~~Full name and address of the patient;~~
 - c. ~~Name and address of the practitioner;~~
 - d. ~~DEA registration number of the practitioner in the case of Schedule III and IV controlled substances;~~
 - e. ~~Name, strength, dosage form and quantity prescribed;~~
 - f. ~~Quantity dispensed; and~~
 - g. ~~Total number refills authorized.~~
 2. ~~A system must provide for the retrieval (via CRT display or hard copy printout) of the current refill history of prescription orders. Refill history shall include, but not be limited to:~~
 - a. ~~Name of drug;~~
 - b. ~~Date of refill;~~
 - c. ~~Quantity dispensed;~~
 - d. ~~Name or identification code of manufacturer or distributor in the case of a generically written prescription or a generic substitution;~~
 - e. ~~Name or initials of the dispensing pharmacist for each refill; and~~
 - f. ~~Total number of refills dispensed to date.~~
 3. ~~Documentation of the correctness of refill information entered into a system must be provided by the pharmacist using a system. Documentation includes one of the following:~~
 - a. ~~A hard copy printout of each days' refill data which has been verified, dated and signed by each refilling pharmacist; or~~
 - b. ~~A bound log book or separate file of daily statements which have been signed by each refilling pharmacist and which state that refill data has been reviewed by him and is correct.~~
 4. ~~The documentation referred to in (A)(3)(a) above must be provided to the pharmacy using a system by a refilling pharmacist within 72 hours of the date of dispensing.~~
 5. ~~A pharmacy using a system shall keep its hard copy printout, bound log book or separate file for a period of three years from the date of dispensing.~~
 6. ~~A system must provide for retrieval (via CRT display or hard copy printout) shall include the following:~~
 - a. ~~Name of prescribing practitioner;~~
 - b. ~~Name and address of the patient;~~
 - c. ~~Quantity dispensed for each refill;~~
 - d. ~~Date of dispensing for each refill;~~
 - e. ~~Name or identification code of the dispensing pharmacist; and~~
 - f. ~~Number of the original prescription order.~~
 7. ~~A system which has a central record keeping location must be capable of transmitting information to a user pharmacy within 48 hours of its request. A user pharmacy shall verify the transmittal capability of its system upon request.~~
 8. ~~A user pharmacy shall have an auxiliary procedure for documentation of refill data to be used in the event of system down time. Such a procedure shall insure that all refill data is retained for on-line data entry as soon as the system is available for use again. Systems Manual. A pharmacy permittee or pharmacist-in-charge shall:~~
 1. Develop and implement policies and procedures for the following operational aspects of a computer system:
 - a. Examples of all required output documentation provided by the computer system;
 - b. Steps to be followed when the computer system is not operational due to scheduled or unscheduled system interruption;
 - c. Regular and routine backup file procedure and file maintenance;
 - d. Audit procedures, personnel code assignments, and personnel responsibilities; and
 - e. Quality assurance mechanism for data entry validation;

Arizona Administrative Register
Notices of Proposed Rulemaking

2. Review and revise the policies and procedures biennially;
 3. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee; and
 4. Make the policies and procedures available within the pharmacy for reference by pharmacy personnel and inspection by the Board or its designee.
- B.** Any pharmacist who intends to use a system must notify D.E.A. of his intent. Computer system.
1. Data storage and retrieval. The computer system shall have the capability of producing sight-readable information on all original and refill prescription orders and patient's profiles.
 2. The computer system shall provide on-line retrieval (via CRT display or hard-copy printout) of original prescription order information as required in A.R.S. § 32-1968(C) and A.A.C. R4-23-402(A) and R4-23-407(A).
 3. The computer system shall provide on-line retrieval (via CRT display or hard-copy printout) of patient profile information as required in A.A.C. R4-23-402(A).
 4. A pharmacy permittee or pharmacist-in-charge shall provide documentation identifying the pharmacist or intern responsible for dispensing each new or refill prescription order.
 5. The computer system shall be capable of producing a printout of any prescription order data. The computer system shall provide a new and refill audit trail for any specified strength and dosage form of any drug. Such an audit trail shall be by printout, and include the name of the prescribing medical practitioner, name and address of the patient, quantity dispensed on each new or refill prescription order, date of dispensing for each new or refill prescription order, name or identification code of the dispensing pharmacist or intern, and serial number of each prescription order.
 6. Any pharmacy maintaining centralized prescription records shall be capable of sending a requested printout to an individual pharmacy within 72 hours.
- C.** A system must be approved by the Board prior to its use. The filling and refilling of prescriptions shall comply with the requirements of R4-23-402(A)(9) and subsection (A) of this rule prior to system approval by the Board. A pharmacy permittee or pharmacist-in-charge of a pharmacy that intends to use a computer system to document new and refill prescription order information and patient profiles instead of hard-copy new and refill prescription order records and hard-copy patient profiles shall notify in writing the drug enforcement administration and the Board of the intent.
- D.** If a pharmacy computer system is found non-compliant with the requirements of subsections (A) or (B), the pharmacy shall bring the computer system into compliance within 3 months. If the computer system is still non-compliant with subsections (A) or (B) after 3 months, the pharmacy shall immediately comply with the manual recordkeeping requirements of R4-23-402 and R4-23-407.
- E.** If a pharmacy performing manual recordkeeping because of subsection (D) wishes to again use a computer system to maintain new and refill prescription order information and patient profiles, the pharmacist-in-charge shall provide the Board or its designee with proof of a computer system's compliance with subsections (A) and (B) before stopping manual recordkeeping. Proof of a computer system's compliance shall include a satisfactory computer system audit.
- F.** Security. To maintain the confidentiality of patient records, the computer system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of patient records. Once a drug is dispensed, any alterations in prescription order data shall be documented, including the identification of the pharmacist or intern responsible for the alteration.
- G.** A computer system that does not comply with all the requirements of subsections (A) and (B) may be used in a pharmacy if:
1. The computer system was in use in the pharmacy before the effective date of this Section; and
 2. The pharmacy complies with the manual recordkeeping requirements of R4-23-402 and R4-23-407.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION
MOTOR VEHICLE DIVISION**

PREAMBLE

1. Sections affected:

R17-4-251

Rulemaking Action:

Repeal

Arizona Administrative Register
Notices of Proposed Rulemaking

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 28-366

Implementing statutes: A.R.S. §§ 28-2003 and 28-2402

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 6 A.A.R. 1918, May 26, 2000

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: George R. Pavia, Division Rules Coordinator

Address: Motor Vehicle Division, Mail Drop 507M
3737 North Seventh Street, Suite 160
Phoenix, Arizona 85014

Telephone: (602) 712-8446

Fax: (602) 241-1624

E-mail: gpavia@dot.state.az.us

5. An explanation of the rule, including the agency's reasons for initiating the rule:

This rulemaking arises from a 5-year rule review (F-98-0401) approved by the Governor's Regulatory Review Counsel on May 5, 1998. The 5-year review report recommended repeal of R17-4-251 since the rule essentially expired after 1974. Since this rule is no longer enforced and is in conflict with current statutory authority, repeal of the rule is a necessary course of action.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

Motor Vehicle Division is claiming exemption under the provisions of A.R.S. § 41-1055 (D)(3). The only foreseen economic impact of repealing R17-4-251 is clerical costs involved in formal rulemaking. Repeal of this obsolete rule accordingly decreases agency monitoring, reporting, and enforcement burdens required of effective administrative rules.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: George R. Pavia, Division Rules Coordinator

Address: Motor Vehicle Division, Mail Drop 507M
3737 North Seventh Street, Suite 160
Phoenix, Arizona 85014

Telephone: (602) 712-8446

Fax: (602) 241-1624

E-mail: gpavia@dot.state.az.us

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

No public hearing is scheduled for this repeal rulemaking. Public comment or a hearing request may be given to the officer listed in item #4. The public record in this rulemaking will close at 4:30 p.m. on July 31, 2000.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

Arizona Administrative Register
Notices of Proposed Rulemaking

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION

MOTOR VEHICLE DIVISION

ARTICLE 2. TITLES & REGISTRATION

Section

~~R17-4-251. Annual renewal of horseless carriage license plate or a classic car license plate—\$5.00 January 1, 1974 Repealed~~

ARTICLE 2. TITLES & REGISTRATION

~~**R17-4-251. Annual renewal of horseless carriage license plate or a classic car license plate—\$5.00 January 1, 1974 Repealed**~~

- ~~**A.** The existing fees have been determined from the statutorily established fee for issuance and renewal of special plates for amateur radio operators, and~~
- ~~**B.** The Arizona Legislature has generally increased motor vehicle fees and specifically increased the fees for special plates for amateur radio operators,~~
- ~~**C.** The fee for the issuance or annual renewal of a Horseless Carriage license plate or a classic car license plate shall be \$5.00, effective January 1, 1974.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 9. DEPARTMENT OF ADMINISTRATION

SCHOOL BUSES

PREAMBLE

1. Sections Affected

Article 2
R17-9-201
R17-9-202

Rulemaking Action

New Article
New Section
New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 28-900

Implementing statute: A.R.S. § 15-349

3. List of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 6 A.A.R. 479 (January 28, 2000)

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Jeanne Hann
Address: 1400 West Washington St., Ste. 270
Phoenix, Arizona 85007
Telephone: (602) 542-2006
Fax: (602) 542-1486

5. An explanation of the rule, including the agency's reasons for initiating the rulemaking:

In 1993, the legislature directed that school districts in certain metropolitan areas develop and implement a plan to increase the use of alternative fuels in school district-owned vehicles. These rules establish minimum standards for converting a school bus manufactured to operate on only gasoline or diesel fuel to one that operates, in whole or in

Arizona Administrative Register
Notices of Proposed Rulemaking

part, on compressed natural gas and for inspecting and maintaining a school bus with a compressed natural gas fuel system.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

California Energy Commission, Safe School Bus Clean Fuel Efficiency Demonstration Program, May 1999, available from the address listed in item 4 or at www.energy.ca.gov/afvs/schoolbus.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

School districts in certain metropolitan areas can comply with the legislative requirement that they increase the use of alternative fuels in school district-owned vehicles by purchasing new school buses manufactured to operate on alternative fuels or by converting existing school buses to use of alternative fuels. These rules update the standards for conversion of school buses to use of alternative fuels and their subsequent maintenance. The new rules, which replace that at A.A.C. R17-4-611, impose no additional requirements on businesses that convert school buses to use of alternative fuels or the Department. Any increased or decreased costs to school districts from the use of alternative fuels in school district-owned vehicles result from the legislative directive in A.R.S. § 15-349 rather than these rules. The Department will incur the cost of this rulemaking and distribution of the final rule to school districts. The primary benefit of these rules is protection of the children who ride school buses and the public. The rules will ensure that those who convert school buses to use of alternative fuels adhere to up-to-date standards.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Allen Malanowski
Address: 1400 West Washington St., Ste. 270
Phoenix, Arizona 85007
Telephone: (602) 542-2017
Fax: (602) 542-2058

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Written comments may be submitted until 5 p.m. on August 7, 2000, to the person identified in item 4. No oral proceeding on the proposed rules has been scheduled. A written request that an oral proceeding be scheduled may be submitted to the person identified in item 4 until 5 p.m. on August 7, 2000.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

NFPA 52, Standard for Compressed Natural Gas (CNG) Vehicular Fuel Systems, (1998), 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101, (617) 770-3000, www.nfpa.org, incorporated at R17-9-201(D)(2).

13. The full text of the rule follows:

TITLE 17. TRANSPORTATION

**CHAPTER 9. DEPARTMENT OF ADMINISTRATION
SCHOOL BUSES**

ARTICLE 2. MINIMUM STANDARDS FOR SCHOOL BUSES OPERATED ON ALTERNATIVE FUEL

R17-9-201. Minimum Standards for Compressed Natural Gas Fuel Systems

R17-9-202. Inspection and Maintenance of Compressed Natural Gas Fuel Systems

ARTICLE 2. MINIMUM STANDARDS FOR SCHOOL BUSES OPERATED ON ALTERNATIVE FUEL

R17-9-201. Minimum Standards for Compressed Natural Gas Fuel Systems

A. In addition to the definitions in A.A.C. R17-9-101, in this Article, unless otherwise specified:

“AGA” means the American Gas Association.

“ANSI” means the American National Standards Institute.

“Angle of departure” means the area above an imaginary line that extends from the bottom outside edge of the rear bumper on a vehicle to the point at which a tire on the vehicle’s rear drive axle touches the ground.

“Appurtenance” means an item connected to an opening of a natural-gas pressure vessel to make the natural-gas pressure vessel gas-tight. This includes but is not limited to pressure relief devices, shutoff, backflow, excess-flow, and internal valves, liquid-level and pressure gauges, and plugs.

“Approved” means acceptable to the Department.

“ASE” means National Institute of Automotive Service Excellence.

“Bracket” means rubber-lined, hoop and cradle mounting hardware supplied or approved by a pressure-vessel manufacturer to hold a natural-gas pressure vessel in a rack.

“CNG” means compressed natural gas, a combustible mixture of hydro-carbon gases and vapors, principally methane, that is reduced in volume by pressure for use as a vehicular fuel.

“Fuel-distribution assembly” means a device that regulates the flow of fuel from a natural-gas pressure vessel to a vehicle engine.

“Fuel line” means a pipe, tubing, or hose, and all related fittings through which natural gas passes on a vehicle.

“Installer” means a person who converts a school bus from the use of gasoline to the use of CNG by attaching a natural-gas fuel system to the school bus after the school bus is manufactured.

“Listed” means included in a publication of an approved organization that is concerned with product evaluation, conducts periodic inspection of equipment or material, and includes equipment or material in the approved organization’s publication only if the equipment or material complies with appropriate standards or performs in a specified manner.

“NFPA” means the National Fire Protection Association, which is located at 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101, and which is accessible at (617) 770-3000 and www.nfpa.org

“NGV-1” means specific standards set by the American National Standards Institute and American Gas Association for the refueling connection device of a natural-gas vehicle.

“NGV-2” means specific standards set by the American National Standards Institute and American Gas Association for a vehicle-on-board natural-gas pressure vessel.

“Natural gas” means a combustible mixture of hydrocarbon gases and vapors, principally methane.

“Natural-gas fuel system” means a group of items including a pressure vessel and all attached valves, piping, and appurtenances that form a network for distributing natural gas to a vehicle engine.

“Operating pressure” means the internal force that a manufacturer intends for a natural-gas pressure vessel to achieve during normal operation of the vehicle to which the natural-gas pressure vessel is attached.

“Out-of-service” means not compliant with these rules, NFPA 52, or manufacturer’s instructions for installation, maintenance, or repair.

“Owner” means a private business, school, or school district that owns a school bus.

“PSI” means pound per square inch.

“Pressure-relief device” means a mechanism that is installed in a natural-gas pressure vessel or integrated with a valve, that is operated by temperature, pressure, or both, and that releases the CNG in the natural-gas pressure vessel in specific emergency conditions. A pressure-relief device for a U.S. Department of Transportation or Canada Transport natural-gas pressure vessel also includes a mechanism capable of protecting a partially charged natural-gas pressure vessel.

“Pressure vessel” means a cylinder that is part of a natural-gas fuel system and that is constructed, inspected, and maintained in accordance with U.S. Department of Transportation or Canada Transport regulations or ANSI/AGA NGV2, Basic Requirements for Compressed Natural Gas Vehicle (NGV) Fuel Containers, or CSA B51, Boiler, Pressure Vessel and Pressure Piping Code.

“Pressure-vessel valve” means a mechanical device connected directly to a natural-gas pressure vessel opening that regulates the flow of CNG from the natural-gas pressure vessel to the vehicle engine.

“Rack” means a metal structure that surrounds a natural-gas pressure vessel mounted on a vehicle and is secured to the vehicle frame by a method capable of withstanding a static up, down, left, right, forward, or backward force of 8 times the weight of the fully pressurized natural-gas pressure vessel.

Arizona Administrative Register
Notices of Proposed Rulemaking

“UL” means the Underwriters’ Laboratory, Inc.

B. Applicability and enforcement date of this Section

1. This Section applies to school buses that are manufactured to use only gasoline or diesel fuel and are converted to use CNG, in whole or in part.
2. This Department shall enforce this Section beginning 180 days after it is filed with the Office of the Secretary of State. After the beginning enforcement date, a school bus that is manufactured to use only gasoline or diesel fuel and is converted to use CNG, in whole or in part, shall meet the requirements of this Section when the school bus is introduced into Arizona or when the school bus is converted to natural-gas power. A school bus introduced into Arizona and powered in whole or in part by CNG before the beginning enforcement date of this Section shall meet the requirements of this Section or those set forth at A.A.C. R17-4-611.
3. After the beginning enforcement date of this Section, the Department shall not approve a school bus manufactured to use only gasoline or diesel fuel and converted to use CNG, in whole or in part, unless the natural-gas fuel system meets the requirements of this Section.

C. Insurance

1. An owner shall contract with an installer only if the installer has insurance coverage provided by a comprehensive general liability broad form insurance policy that is approved by the Department. The insurance policy shall include but not be limited to coverage for liability resulting from:
 - a. Completed installation operations;
 - b. Harm that arises on the installer’s premises; and
 - c. Breach of contract by the installer.
2. In addition to the liability coverage described in subsection (C)(1), an owner shall ensure that either:
 - a. The installer has insurance coverage for liability resulting from harm that arises from subcontracted work performed by an independent contractor; or
 - b. An independent contractor who performs work for the installer under an agreement has an insurance policy that provides coverage for liability resulting from harm caused by the independent contractor’s work.
3. An owner shall contract with an installer only if the installer has an insurance policy that provides at least \$1 million liability coverage per occurrence both for bodily injury and for property damage.
4. An owner shall contract with an installer only if the issuer of the installer’s insurance policies described in subsections (C)(1) through (C)(3) names the Department as an additional insured on each policy and keeps the Department informed of any change in the status of each policy.
5. An owner shall obtain the Department’s approval of the installer’s insurance policy by submitting proof of the insurance described in subsections (C)(1) through (C)(3) to the Department before entering a contractual agreement with the installer for the installation of a natural-gas fuel system on a school bus.
6. If an owner acts as an installer, the owner shall maintain the insurance required by this subsection.
7. The Department shall approve an installer’s insurance policy, proof of which is submitted by an owner in accordance with subsection (C)(5), if the policy conforms with the requirements in subsections (C)(1) through (C)(3). The Department shall send written notice of its decision to approve or disapprove the installer’s insurance policy to the owner within 15 days from receipt of the proof of insurance.

D. General requirements for installing a natural-gas fuel system

1. Converting a school bus to use of CNG, whether in whole or in part, is not an alteration as defined in R17-9-101.
2. Unless specifically provided otherwise in this Section, when installing a natural-gas fuel system, an installer shall use parts and equipment and perform work in a manner that meets or exceeds the standards of NFPA 52, Standard for Compressed Natural Gas (CNG) Vehicular Fuel Systems, 1995 (and no later editions or amendments), Quincy, MA, which is incorporated by this reference and on file with the Department and the Office of the Secretary of State.
3. An installer shall use only UL-listed or AGA-approved carburetor equipment when installing a natural-gas fuel system on a school bus.
4. An installer shall meet or exceed the recommended guidelines provided by the manufacturers of all parts of a natural-gas fuel system when installing the natural-gas fuel system on a school bus.
5. An installer shall ensure that installation of a natural-gas fuel system on a school bus is performed by an individual who has proof of training provided by the manufacturer of the natural-gas fuel system or ASE alternative fuels certification.
6. If a school bus is converted from the use of gasoline or diesel fuel to the dedicated use of CNG, the installer shall remove the gasoline or diesel-fuel tank and accompanying gasoline or diesel-fuel system parts from the school bus.

E. Natural-gas pressure vessel: An installer shall use only a natural-gas pressure vessel that is certified by its manufacturer as meeting or exceeding the NGV2 standards and as being U.S. Department of Transportation or ANSI listed. An installer shall use the natural-gas pressure vessel manufacturer’s recommended bracket.

F. Installing a natural-gas pressure vessel

1. An installer shall securely attach a rack to the frame of a school bus in the following manner:

Arizona Administrative Register
Notices of Proposed Rulemaking

- a. By drilling no holes in the school bus frame that exceed the manufacturer's requirements; and
 - b. By using no welding on and applying no heat to the school bus frame.
 - 2. When installing a natural-gas fuel system on a school bus, an installer shall locate the natural-gas pressure vessel and its appurtenances on the vehicle frame as follows:
 - a. Below the driver's or passenger's compartment;
 - b. So no part protrudes in front of the front axle, beyond the outside face of the rear bumper, or beyond the sides of the school bus;
 - c. Inside a rack; and
 - d. So the minimum clearance between the road and the lowest part of the natural-gas pressure vessel and its rack on a school bus loaded to its gross vehicle weight rating is:
 - i. Not less than 7 inches (17.5 mm) for a school bus with a wheel base less than or equal to 127 inches (323 mm); or
 - ii. Not less than 9 inches (22.5 mm) for a school bus with a wheel base greater than 127 inches (323 mm).
 - 3. If the natural-gas pressure vessel and its appurtenances are located behind the rear axle of the school bus, in addition to the requirements in subsection (F)(3), an installer shall locate the natural-gas pressure vessel as follows:
 - a. Below the floor line; and
 - b. Above the school bus's angle of departure.
- G.** Protecting a natural-gas pressure vessel. To protect a natural-gas pressure vessel and its appurtenances from damage, an installer shall:
- 1. Surround the natural-gas pressure vessel with a stone guard on all sides that are not protected by the natural barriers of the vehicle. The stone guard shall not be attached to the natural-gas pressure vessel. If the stone guard protects a valve, it shall be made of at least 16-gauge steel. If the stone guard does not protect a valve, it shall be made of at least 3/16-inch mesh with openings no greater than 1 inch;
 - 2. Place a resilient, non-absorbent gasket between the natural-gas pressure vessel and its brackets in a manner that prevents the brackets from directly contacting the natural-gas pressure vessel;
 - 3. Ensure that the weight of the natural-gas pressure vessel is not supported, in whole or in part, by an appurtenance; and
 - 4. Place a shield between, but not attached to, the natural-gas pressure vessel and the vehicle exhaust system if the natural-gas pressure vessel or the fuel lines are located less than 8 inches from the exhaust system. The shield shall be constructed of at least 18-gauge metal.
- H.** Safety and check valves: An installer shall equip a natural-gas fuel system with:
- 1. Either an automatic fuel supply shut-off valve that is placed between the pressure vessel fuel-pressure regulator and the fuel distribution assembly and activated by engine vacuum or oil pressure, or an electronic fuel injector; and
 - 2. Either a manual or automatically controlled shut-off valve that enables the natural-gas pressure vessel to be isolated from the remainder of the natural-gas fuel system. If a manual shut-off valve is used, it shall:
 - a. Have no more than 90° rotation from the opened to the closed position;
 - b. Have a red valve handle;
 - c. Be placed in an accessible location; and
 - d. Have "ESV" printed on the school bus at the access location to the manual shut-off valve, in 2-inch to 4-inch, unshaded, red letters.
- I.** Installation of fuel lines. An installer shall:
- 1. Use fuel lines constructed of seamless stainless steel that has been tested and certified by the manufacturer to an operating pressure of 3600 PSI with a 4:1 safety factor;
 - 2. Mount and brace fuel lines to the vehicle frame in a manner that minimizes vibration;
 - 3. Secure fuel lines to the vehicle frame at least every 24 inches with rubber-lined fasteners;
 - 4. Protect fuel lines that pass through any structural member with rubber grommets, bulkhead fittings, or both;
 - 5. Cause fuel lines that run to the engine to follow the main frame channel; and
 - 6. Install an access door that is at least 70 square inches if access to the fill receptacle and fuel pressure gauge is through the school bus body. The words "CNG Fill" shall be printed on the school bus body, immediately above the access door, in 2-inch to 4-inch, unshaded letters.
- J.** Installation of Venting System. An installer shall ensure that in addition to meeting the requirements in NFPA 52, all vent exits are aimed toward the ground.

R17-9-202. Inspection and Maintenance of Compressed Natural Gas Fuel Systems

- A.** This Section applies to all school buses that are powered, in whole or in part, by CNG and are introduced into Arizona after the beginning enforcement date of these rules.
- B.** An owner shall not use a school bus equipped with a natural-gas fuel system to transport passengers until the natural-gas fuel system is inspected and approved by the Department. An owner shall notify the Department when the owner obtains a school bus that needs to be inspected for compliance with these rules.

Arizona Administrative Register
Notices of Proposed Rulemaking

- C.** After the initial inspection conducted by the Department, an owner shall ensure that a school bus equipped with a natural-gas fuel system is inspected annually and under the following special circumstances:
1. When the school bus is involved in an accident;
 2. When the natural-gas pressure vessel may have been damaged;
 3. When natural gas is smelled;
 4. When there is an unexpected loss of gas pressure, rattling, or other indication of looseness; or
 5. When the natural-gas pressure vessel is changed.
- D.** An owner shall ensure that an annual or special-circumstances inspection is conducted by the Department or an individual who has proof of training provided by the manufacturer of the natural-gas fuel system or ASE alternative-fuel certification.
- E.** An owner shall ensure that every inspection of a school bus equipped with a natural-gas fuel system assesses whether the natural-gas fuel system meets the safety standards in A.A.C. Title 17, Chapter 9, and NFPA 52. This assessment shall include, but is not limited to:
1. Leak-testing the natural-gas fuel system in compliance with NFPA 52 guidelines;
 2. Verifying that the pressure vessel is designed for storage of CNG;
 3. Verifying that the service life of the natural-gas pressure vessel has not expired;
 4. Verifying that the natural-gas pressure vessel is certified by its manufacturer as meeting or exceeding the NGV2 standards and as being USDOT or ANSI listed;
 5. Verifying that all parts of the natural-gas fuel system are properly listed or approved; and
 6. Verifying that all parts of the natural-gas fuel system are installed in accordance with their manufacturer's instructions.
- F.** An owner shall ensure that an individual who conducts an inspection of a school bus equipped with a natural-gas fuel system completes a Compressed Natural Gas Safety Inspection Form, which is available from the Department, and certifies that the school bus meets all safety standards in A.A.C. Title 17, Chapter 9, and NFPA 52.
- G.** If it is necessary to condemn a natural-gas pressure vessel, the owner shall:
1. Return the condemned natural-gas pressure vessel to its manufacturer; and
 2. Obtain a certificate from the manufacturer that states ownership of the natural-gas pressure vessel is transferred from the owner to the manufacturer.
- H.** An owner shall maintain each completed Compressed Natural Gas Safety Inspection Form in a separate file for each school bus for the service life of the school bus. If a school bus is transferred from one owner to another, the 1st owner shall transfer the completed inspection forms to the 2nd owner.
- I.** An owner shall make the inspection forms maintained under subsection (H) available for review by the Department.

NOTICE OF PROPOSED RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

**CHAPTER 14. DEPARTMENT OF ENVIRONMENTAL QUALITY
PERMITS AND COMPLIANCE FEES**

PREAMBLE

<u>1. Sections Affected</u>	<u>Rulemaking Action</u>
Article 1	Amend
R18-14-101	Amend
R18-14-102	Amend
R18-14-103	Amend
R18-14-104	Repeal
Schedule A	Repeal
Schedule B	Repeal
Schedule C	Repeal
Schedule D	Repeal
R18-14-104	New Section
Table 1	New Table
R18-14-105	Repeal
R18-14-105	New Section
Table 2	New Table
R18-14-106	Repeal

Arizona Administrative Register
Notices of Proposed Rulemaking

R18-14-106	New Section
Table 3	New Table
R18-14-107	Repeal
R18-14-107	New Section
R18-14-108	Repeal
R18-14-108	New Section
R18-14-109	New Section
R18-14-110	New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 49-203(A), 49-203(C), and 49-241.02

Implementing statutes: A.R.S. §§ 49-104(A), 49-104(B), 49-203(C), 49-241, 49-241.02, 49-242, 49-243, 49-243.01, 49-245, 49-245.02, 49-331, and 49-362.

3. List of all previous notices appearing in the register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 5 A.A.R. 3710, October 8, 1999

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Jane DeRose-Bamman
Address: 3033 N. Central Ave,
Phoenix, Arizona 85012
Telephone: (602) 207-4374
Fax: (602) 207-4674

5. An explanation of the rule, including the agency's reasons for initiating the rule:

- A. Background for these proposed rules. To comply with R18-14-108, in March 1999, ADEQ convened a stakeholder group to assist ADEQ in reviewing the revenues derived from and costs incurred for water quality protection services (WQPS). The Water Quality Fee Fund (WQFF) Stakeholder Group was comprised of 15 members representing large municipalities, industry, mining, small utilities, water users, rural entities, commerce, an environmental organization, the Governor's Office and Joint Legislative Budget Council. The WQFF Stakeholder Group provided input on the review process and commented on the draft report. On June 30, 1999, under R18-14-108(C), the Department issued a report on the revenues derived from and costs incurred for WQPS. The final report concluded that a gap exists between the revenues and the costs; revenues fell short of the incurred costs. On September 16, 1999, ADEQ filed a notice of rulemaking docket opening with the Secretary of State to commence rulemaking to adjust the fees. ADEQ and the WQFF Stakeholder Group continued discussions on how to eliminate the shortfall by reducing costs and increasing revenues. The recommendations included implementing permitting and approval process efficiencies, revising billing practices, and to some extent increasing revenues by eliminating or adjusting the statutory fee maxima, deriving a new hourly rate, and/or charging for additional services. The following table shows the WQFF budget, revenues, and expenditures for the WPS during the fiscal years ending 1997 through 2000 (projected).

ADEQ WQFF Budget¹			
FY 1997-2000	A	B	C = (B-A)
	Budgeted Expenditures (Direct)	Permit Revenues	Deficit
1997	\$2,041,800	\$972,215	(\$1,069,585)
1998	\$2,112,900	\$1,261,880	(\$851,020)
1999	\$2,073,600	\$1,308,100	(\$765,500)
2000*	\$1,818,000	\$1,078,400	(\$739,600)
Total:	\$8,046,300	\$4,620,595	(\$3,425,705)
* Projected			

¹ The budgeted expenditures column is based on the appropriated spending level for direct program costs. These levels are restricted by the amount of revenues that are deposited into the WQFF. The WQFF Budget also includes an

Arizona Administrative Register
Notices of Proposed Rulemaking

allowable spending level for expedited permit reviews which can only be used if an applicant requests that its application be reviewed by a third-party contractor. The applicant reimburses ADEQ for all expedited review expenses. This does not change the available funding for WQPSs.

The table demonstrates that over the last four fiscal years since the adoption of the current fee rule, WQPS permit revenues have been about 42.6% less than the WPS's direct budgeted cost expenditures, resulting in an estimated deficit of \$3.4 million, or an annual average of more than \$800,000. Because the state is not allowed to operate under a deficit and the fee fund revenues fell short of budgeted levels, ADEQ had to redirect certain staff to work on other state and federally funded projects so that actual expenditures were far lower than budgeted levels. Redirecting staff also impacted the amount of revenues which were earned and the progress on work projects. ADEQ has implemented and continues to implement permit efficiencies and process improvements. Past improvements attributed to the 26% increase in permit actions issued between FY98-FY00 (302 actions) over the combined total of permit actions issued between FY90-FY97 (238 actions). Process improvements include development of numerous fact sheets, checklists, boilerplate language, and technical guidance documents to reduce time needed to clarify issues for both applicant and WPS staff and to standardize technical review. A formal training program has been implemented for new staff to minimize the impact of staff turnover on productivity. These improvements contribute to more complete applications which lead to a reduction in the number of review hours and faster processing times. Additional improvements being implemented currently include: the development of additional templates for permits and permit language, a revision of the application forms for APP activities, and the streamlining of processes, development of general permits, and specification of technical requirements for sewage treatment facilities as proposed in the Unified Water Quality Permitting (UWQP) rules and the Reclaimed Water Permit (RWP) rules published in the *Arizona Administrative Register* (A.A.R.) at 6 A.A.R. 1205, April 7, 2000, and 6 A.A.R. 1614, May 5, 2000, respectively. ADEQ anticipates that the additional changes will significantly improve the processing times for services. The current rule, approved in November 1996, authorizes ADEQ to assess and collect many WQPS fees at the hourly rate of \$49, up to a specified maximum. Prior to April 28, 2000, the statutory maximum fee was \$16,000 for an individual permit action and \$25,000 for a site, as provided in A.R.S. § 49-241.02. Twenty-three permit actions (Individual APPs, Major Modifications, and Clean Closures) exceeded the applicable maximum fees from FY97 through FY99. Fifteen of those 23 actions were for mining operations. ADEQ issued 24 mining actions in that same time period, therefore 62.5% of the mining actions exceeded the applicable fee cap. The statutory maximum fees were set artificially low for the mining sector. The staff time which exceeded the cap had to be covered by General Funding or redirected to other projects. Because of the number of hours involved in these projects, their impact on revenues has been quite substantial. This inequity led the Department to seek a legislative change in the statutory maximum fee, which it subsequently obtained. Maximum fees for Aquifer Protection Permit (APP) actions were adjusted in A.R.S. § 49-241.02 as amended by Laws 2000, Ch. 399, § 1. This amendment adjusts the maximum fees to the lesser of an administratively calculated maximum fee or a statutory maximum. The administrative maximum is based on permitting efficiencies and actual costs of administering the program. The maximum fees for non-mining sectors should be reduced on a permit-by-permit basis, although every action will be subject to a separate maximum fee, instead of the \$25,000 cap for a site. ADEQ estimates that these changes, if implemented for permit actions issued between FY96-FY99 would have recovered an additional approximately \$200,000 for individual permits issued over the last four years based on a \$49/hour rate. This increase along with permitting efficiencies discussed above would not be enough to eliminate the shortfall based on the budgeted expenditures. This rulemaking proposes to address the remaining shortfall by allowing the hourly rate to be adjusted annually based on actual costs, charging for more WQPSs, and billing on a more frequent basis, in addition to implementing the change in maximum fees and setting fees for general permits. This rulemaking does not cover fees for applications being reviewed by a third-party review contractor, pursuant to A.R.S. §§ 49-203(C) or 49-241.02(D).

B. Section-by-Section Analysis.

R18-14-101. Definitions. This section includes definitions of terms used in the rule. Several terms used in the proposed UWQP and RWP rules and authorizing statutes, including revisions in Laws 2000, Ch. 399, § 1, also apply in this section. ADEQ has retained definitions for terms such as "Approval to Construct" and "Approval of Construction" because these services are provided until the UWQP rule becomes effective. Definitions for the terms "complex modification" and "standard modification" are used in the rulemaking instead of "significant amendment", "other amendment" and "minor amendment" used in the UWQP rule primarily due to stakeholder feedback. The "complex modification" and "standard modification" terms dictate the applicable maximum fees for an application. These specific modification terms address the amount of review time which may be required for ADEQ staff to process the application. The types of "amendments" to permits as proposed in the UWQP refer to the type of program activity required to process the request for service, but don't necessarily correlate to the amount of review time involved. ADEQ anticipates that a portion of the "significant amendment" activity will fall under "complex modification", and therefore potentially would be subject to the greater maximum fee. The remaining "significant amendments" actions,

along with the “other amendments” and “minor amendment” actions will most likely fall under “standard modification”, and therefore potentially would be subject to the lower initial fees and maximum fee. The proposed definition for “water quality protection service” or “WQPS” no longer includes annual inspections for wastewater facilities, but rather includes annual reclaimed water inspections for facilities covered by a Reclaimed water permit due to statutory changes in A.R.S. § 49-104(C). Also, ADEQ proposes to expand the definition of “WQPS” to include those activities performed following permit issuance and required by conditions specified in the permit.

R18-14-102. Fee Services. This section requires ADEQ to assess fees for WQPS, including site visits, and calculate the fee for each service, either by using an hourly rate fee or flat fee. This section lists the types of review activities that are excluded from the hourly rate fees and the additional costs that may be related to a review and charged to the applicant. The prohibition on charging for travel time has been renumbered and this section clarifies that ADEQ will not charge for the first 60 minutes of consultation time. ADEQ proposes that costs for contracted services (i.e., presiding officer, court reporter, and/or facility rentals) associated with public hearings be charged directly to the applicant. Also, if the applicant agrees, then ADEQ will charge the applicant for project-related laboratory analysis charges incurred by ADEQ during the application review. ADEQ may also charge for other reasonable direct-costs, such as contracting with private consultants, if the need for the other reasonable, direct plan-review related cost is documented in writing and agreed to by the applicant. These additional review-related fees will be added to the review hours fees, but the total fee would be subject to the maximum fee for that application. This section also proposes flat fees for certain WQPSs. New flat fees are specified for Determinations of Applicability (DOAs), Subdivision Approvals, and General Permits.

R18-14-102(D)(1)(c). DOAs. ADEQ receives requests from potential applicants to determine if the operation is exempt from the APP program or qualifies for a general APP. In the past, the service was free unless the determination was that an individual APP was required. If an individual APP was required, the hours of the DOA review would then be applied to the bill for the individual permit, if the owner or operator submitted an application for an individual permit for the facility. ADEQ staff time for these reviews typically ranges between 2 and 20+ hours for single facilities, primarily wastewater treatment operations. ADEQ believes a part of this time should be recoverable and that a fee of \$100 per request is reasonable. This fee would apply if the facility is exempted from APP program requirements or qualifies for a Type 1 general permit. The proposed rule authorizes ADEQ, if it determines that an individual permit is necessary, to apply the \$100 flat fee toward the fee for the individual permit and to include the hours for the DOA review in the fee for the service or if the facility qualifies for Type 2, 3, or 4 general permit, to apply the \$100 fee toward the flat fee for the general permit. ADEQ expects the number of DOA requests submitted to ADEQ for review will decrease because of the additional general permits and the qualifying criteria specified in the proposed UWQP rule. For an area-wide permit application review, often a site contains facilities which may be exempt or may qualify for a general APP. For this scenario, the hours for the DOA review would be applied to the total permit review hours, if the facility itself is not exempt and not covered by a general APP. The \$100 flat fee would be waived if the applicant has applied for an “area-wide” permit, under A.R.S. § 49-243(P). The facilities covered by a general permit will be subject to the appropriate fee specified in the proposed R18-14-106.

R18-14-102(D)(1)(d). Subdivision Approvals. A.R.S. § 49-104(B)(11) authorizes ADEQ to define rules regarding the water supply, sewage disposal and garbage collection and disposal for subdivisions. A.R.S. § 49-104(B)(11)(b) authorizes ADEQ to charge fees for the service. In the past, ADEQ did not charge fees for subdivision approvals. A subdivision approval, depending on the type of water system and sewage system, may require between five and 20 hours of review and processing time. A subdivision approval is necessary for a residential lot subdivision and a recreational vehicle (RV) park or mobile home park which sells each space. Because of the additional work involved with reviewing extremely large subdivisions, ADEQ proposes to restrict subdivision approvals to no more than 150 lots per approval. Subdivisions with more than 150 lots or spaces would need to apply for approval in phases. The fees for the applications are \$500 for subdivisions with sewer connections from each lot to a sewage treatment facility or to a centralized onsite wastewater treatment facility and \$1000 for subdivisions with individual onsite wastewater treatment systems. The fee for the subdivisions using individual onsite wastewater treatment systems is higher than the sewer connection scenarios because ADEQ performs a detailed analysis of the site conditions and corresponding onsite system technologies needed for proper wastewater treatment and disposal.

R18-14-102(D)(1)(e). General Permits. The proposed UWQP rule eliminates or modifies the separate Approval to Construct (ATC) and Approval of Construction (AOC) processes, and adds three Type 2 general APPs, seven Type 3 general APPs, twenty-three Type 4 general APPs, and adjustments to the Type 4 general APPs. The proposed UWQP merges the ATC/AOC process for a sewage treatment facility (STF) which is designed for greater than 24,000 gpd and for an STF using package treatment designed to treat between 3,000 and 24,000 gpd within the individual APP review process. For all other facilities currently required to obtain an ATC and AOC, the proposed UWQP rule replaces the ATC/AOC processes with general APPs specified in Article 4 of the proposed UWQP rule. The proposed

RWP rule includes several general permits to cover the parties involved in the generation, distribution or application of reclaimed water. These general permits are categorized by general permit type. The general permit activities will be subject to flat fees specified in Table 3 of the proposed rule. The flat fee serves in lieu of any initial fee, calculated hourly fee and any permit-related costs. Based on stakeholder feedback, ADEQ prescribes a process for discounting the permitting fee if a site contains more than 1 facility covered under a general permit, R18-14-106(B), (C) or (D). The condition in the proposed R18-14-106(C) only applies for Type 2 or Type 3 permits.

R18-14-103. Hourly Rates and Annual Fee Schedule. This section replaces the specified hourly rate with a formula for calculating the hourly rate. Specifying a formula in rule allows ADEQ to adjust the hourly rate annually to account for permitting efficiencies and fluctuating program costs. The fees will be established in an annual fee schedule, under A.R.S. 49-241(E), and published in the *Arizona Administrative Register*. The formula, revised according to extensive stakeholder comments, is based on a process of developing a workplan, building a budget, and deriving an hourly rate. The formula, defined in the proposed R18-14-103(C), is expressed as follows:

$$\text{Hourly Rate} = [\text{Labor} + (\text{Operating Costs Rate} * \text{Labor}) + \text{Other Operating Costs}] / [\text{Workplan Hours}]$$

The terms and FY2001 inputs are described below.

The workplan is derived from the workload inventory. The workload inventory is estimated using the number of pending projects and estimating the number of projects that will be submitted during the fiscal year for several WQPS categories. For FY2001, the following categories were used: individual APPs, amendments and clean closures; other amendments or permit transfers; minor amendments; reclaimed water individual permits; general APPs; reclaimed water general permits; subdivision approvals; dry well registration; and dry well DOAs. The inventory included approximately 87,000 hours of program related activities not including time for non-project related meetings, training, leave, and travel. The WPS has committed to annual performance measures for addressing existing facilities in order to meet statutory deadlines in A.R.S. § 49-241.01 in addition to Licensing Timeframe requirements for applications submitted after August 14, 1999. ADEQ estimates that the number of pending applications and the projections for incoming work equates to more work hours than can be accomplished by the current staffing level, even if fully staffed. Therefore the FY2001 workplan for WPS activities is based on the amount of work that can be accomplished based on the current number of authorized staff positions (17 project manager positions, 16 technical staff (engineers and hydrologists), five clerical positions, 4 supervisors and 1 section manager) for WQPS within the WPS. ADEQ anticipates that the number of positions will not be increased for WPS staff. The additional positions and activities related to inspections and solid waste APPs were not used in the analysis. Using average time to process the application for each position category, the workplan includes the amount of time it takes to complete a targeted number of projects in each project category. The workplan also includes an estimate of time spent on ongoing projects that were not completed by the end of the fiscal year. The maximum number of hours per year for an employee to work is 2080 hours. Leave time, training time and non-project related meetings such as staff meetings, are not direct billable program hours, and therefore are not included as workplan hours. The net productive labor hours are the remaining hours for a position that could be dedicated to direct billable program work within a fiscal year. ADEQ estimates net productive labor for each position with the following assumptions:

Arizona Administrative Register
Notices of Proposed Rulemaking

Position Type	Total Hours	Training Hours (1.5 hr/wk)	Non-Project Related Meeting Hours (2 hrs/wk for PM and TS, 0.5hrs/wk for CS, 5 hrs/wk for Supv, and 10 hrs/wk for SM)	Sick, Vacation, Holiday Leave Hours	Net Productive Labor Hours
Project Manager (PM)	2080	78	104	275	1623
Technical Staff (TS)	2080	78	104	275	1623
Clerical Staff (CS)	2080	78	26	275	1701
Supervisor (Supv)	2080	78	260	275	1467
Section Manager (SM)	1040	78	520	275	603.5

The remaining hours in a workyear include: project review time for billable projects; review time for state-owned projects (exempted by statute); permit/fee appeals; travel to and from site visits, inspections and/or public hearings; program development and program assistance. Stakeholders do not want ADEQ to bill for travel time and/or initial consultations. Project related hours are further calculated by subtracting travel time, permit/fee appeals and time spent on state-owned projects. The number of project related hours for FY2001 is estimated to be 59,000 hours. Of these hours, ADEQ assumes approximately 9,100 hours (16%) are applied to flat rate projects and 49,500 hours (84%) are applied to hourly rate projects. ADEQ's WQPS budget includes labor costs (salary and employee related expenses (ERE), i.e. fringe benefits), operating costs and "other operating costs". ADEQ estimates labor costs by evaluating the number of each type of position needed to complete the projected workplan hours. If the number of needed positions exceeds the number of available positions, then the workplan is reduced to reflect the amount of work that may be completed with the number of available positions. The salary component of labor is based on the maximum salary for each position type. Five categories of positions (Project Management, Technical [For budget purposes, the salary for the technical position is based on the salary for an environmental engineering position.], Clerical, Supervisory and Section Management) are used. All positions except the Section Manager are hired to handle WQPSs and related activities, therefore 100% of the time is "WQPS related". The Section Manager focuses on federal water programs along with WQPS, therefore ADEQ estimates that only 50% of the position's time is "WQPS related". An hourly salary figure for each position category is derived by dividing the maximum salary for that position category by 2080 hours. The ERE cost per hour is determined by multiplying the hourly salary figure by the ERE rate. For FY2001, the ERE was calculated to be 21.1 percent which is based on an average amount of benefits for employees. The hourly salary figure and the ERE cost are added to determine the hourly labor figure for each position category. The budgeted labor costs are derived by multiplying the hourly labor figure by the number of positions needed to complete the work within the year and the number of hours that each employee in that position category will work on billable WQPS or related activities that are not statutorily restricted. Estimated hours for permit/fee appeals are also not included in billable WQPS activities. The operating costs are defined as the expenses related to building (rent, utilities including extra air conditioning required when ADEQ schedules public meetings in the evening, landscaping, maintenance, parking); liability insurance; centralized printing; postage; communications (telephone equipment, telephone lines, voice mail and maintenance); information technology (software licenses and contractors); and salary, benefits and other operating costs for certain ADEQ Administration Division staff and ADEQ Director's Office staff who provide services to more than 1 program office. These costs are budgeted by using an "Operating Costs Rate" that is calculated annually by ADEQ and approved by U.S. EPA. This rate is applied to the total salary and benefits costs for the program. For FY2001, the operating costs rate is 51.24% of the labor costs. The operating costs rate varies annually depending on the variations in costs, and could decrease. The program also has "other operating costs" that are not included in the operating costs. These costs include but are not limited to: supplies (i.e. pens, paper, binders); outsourced training courses, seminar or workshop fees; dues; motor pool; and equipment (including computer leasing and printers). These costs are billed directly to the program. Based on stakeholder feedback, costs for in and out-of-state travel will not be included in the "other operating costs" component of the budget for hourly rate calculation purposes. The hourly rate is derived by dividing the total amount for labor, operating costs and "other operating costs" by the estimated number of hourly rate project hours completed within 1 year (workplan hours). The hourly rate based on factors for FY 2001 would be \$61 per hour. Some stakeholders believe that the operating costs should not be factored into the budget factor of the formula. ADEQ believes that it is appropriate to

Arizona Administrative Register
Notices of Proposed Rulemaking

recover these costs because these are program-related costs that can be broken down per hour of labor. ADEQ considers direct billable program costs to be the portion of labor, employee related benefits (fringe benefits), operating and other operating costs associated with project related hours. ADEQ considers indirect non-billable costs to be the portion of labor, employee related benefits (fringe benefits), operating and other operating costs that apply to non-project related hours. These indirect costs or costs associated with the non-billable hours will be covered by the General Fund allocations. The APP General Fund appropriations for the WPS varied between \$1,287,100 in FY97, \$1,226,000 in FY98, \$1,246,000 in FY99 and \$1,314,300 in FY00. For the foreseeable future, according to budget projections, it is highly unlikely that there will be any increases significantly above this figure. The APP General Fund is used to fund non-billable activities hours and the associated operating and "other operating costs". ADEQ believes this interpretation is consistent with statutory authority and past and current Legislative budget allocations.

R18-14-104. Initial Fees. Initial fees are only required for services that are billed on an hourly basis (issuance, amendments, denial of individual APP or reuse/reclaimed water permits; issuance of clean closure approvals; review of products; issuance of ATCs or AOCs; or performance of annual reclaimed water facility inspections). In the currently effective rule, initial fees for APP services are based on the number of and type of discharging facilities and the type of WQPS. For applications with multiple discharging facilities, the initial fee for the application is now equal to the sum of each applicable initial fee up to any maximum permitting fee. This method has been necessary because ADEQ took only one opportunity to bill for the fees for the service. This rulemaking sets forth 1 initial fee for most WQPSs subject to an hourly fee, i.e. \$1000 for each WQPS, except for ATCs and AOCs. The initial fees for ATCs and AOCs will remain as in the current rule. The proposed initial fee is simpler for applicants as well as ADEQ staff. In addition, this fee will be lower than the current initial fee for most of the applications processed by the WPS. Also, in the proposed revisions, ADEQ envisions a periodic billing process for project-review related fees and therefore, the initial fees may be reduced and streamlined.

R18-14-105. Maximum Fees. The current maximum fees (R18-14-104 and Schedules C and D) are deleted. The proposed rule includes a formula for calculating maximum fees for APP actions based on the authority provided in A.R.S. § 49-241.02, as amended by Laws 2000, Ch. 399, § 1. The maximum fees will be adjusted annually based on permitting efficiencies and the new hourly rate. The revised maximum fees will be published along with the new hourly rate in the *Arizona Administrative Register* by June 1 of each year. The new maximum fees will be effective for the next fiscal year and apply to projects that are deemed administratively complete during the same fiscal year. Once an application is deemed administratively complete, a maximum fee for that permit action is "locked-in". The proposed rule specifies a process for dealing with applications that are being reviewed and that are considered to be administratively complete by ADEQ.

R18-14-106. General Permit Fees. ADEQ has developed numerous new general permits through the UWQP and RWP proposed rules. These general permits, in most cases, should provide operations, meeting certain design requirements, an opportunity to be permitted in less time and for lesser review fees when compared with the individual permitting method. ADEQ proposes no fee for Type 1 GPs because a discharger may qualify to discharge based on the Type 1 GP without notifying ADEQ. Flat Fees for permits, renewals and transfers are specified for Type 2, Type 3, and Type 4 permits proposed in Table 5 of the proposed Fee Rule. Type 2 general permits require minimum ADEQ review and therefore the fees equal approximately 1 hour of work per year (for data-entry and review) for the duration of the permit. Using a \$61/hour rate for a five-year duration, ADEQ proposes a fee equal to \$300. All flat fees would be paid in 1 lump sum, not annually. ADEQ will review an application for a Type 3 general permit and then if the conditions are met, ADEQ will prepare a certification. ADEQ estimates an average of 25 hours will be needed to complete the certification from log-in to final data entry based on past permit issuance for individual permits and an assumption of 30-40% reduction in processing time. This amount of time based on the \$61/hour equals approximately \$1500. ADEQ sets forth fees for Type 3 GPs of \$1500 for the initial permitting period or for a renewal if the operations change, and \$500 renewal fee if no changes occur to the operations. The full fee is required for when the operations change because ADEQ will need to treat the application like a new application for Type 3 GP. ADEQ proposes a variety of flat fees for Type 4 general permits. The schedule of fees ADEQ proposes for Type 4 general permits is based on estimated complexity and review times for the various permits. Because many of these general permits involve newer technologies not frequently reviewed by ADEQ for individual onsite wastewater systems, ADEQ has made an estimate of an appropriate fee. For operations using Type 4 general permits, more than 1 Type 4 general permit may be used in the design. For situations utilizing more than 1 Type 4 general permit, ADEQ developed the proposed R18-14-106(B) that specifies that the general permit fee will be calculated using the greatest fee for any of the applicable general permits plus \$250 for each additional general permit. ADEQ proposes additional charges for designs using an alternative design feature and/or an interceptor for oil and grease.

R18-14-107. Fee Assessment and Collection. ADEQ proposes to collect fees for annual reclaimed water inspections after the final inspection report is prepared. Fees for all other services must be paid in full prior to the time ADEQ

issues its final decision pertaining to the application. To stabilize cashflow, ADEQ plans to bill the applicant no more frequently than monthly, but at least quarterly, for the review fees. This periodic billing approach would be used until ADEQ makes a final decision on the application. A final bill will be sent at that time. This approach benefits the applicant because the applicant will receive details on the dates and types of review activities soon after the work is accomplished, instead of a final invoice for all covered activities incurred over a 1 or more year period prior to the billing. The periodic billing procedure is of benefit to ADEQ to bring in the necessary level of fees to cover its costs once the review time spent on a project exceeds the initial fee amount. Depending on the length of time and the amount of review time needed to complete the project, ADEQ may send more than 1 periodic bill to an applicant prior to the final bill. If the initial fee is not exceeded, then the invoice will show a pending credit. The bills should include the total number of hours of review and the effective hourly rate; a description of each review-related costs included (if any); the total amount of the fees due and paid and the maximum fee for the project; and the date and description of each activity performed. Travel time was previously listed separately, but because it is not a billable activity, ADEQ proposes to remove this requirement to list it separately from the rule.

R18-14-108. Reconsideration of the Bill; Appeal Process. ADEQ proposes to revise the current R18-14-106 to include periodic billings in addition to the final billings. Invoices would be appealable at the time of the billing. Any fee appeal needs to be submitted to the Department within 30 days of the date printed on the invoice. The date of the invoice serves as the trigger date, because it is difficult to determine when the applicant receives the invoice. Common billing practice is to require payment within 30 days of the date of the bill. Thirty days should provide adequate time for an applicant to develop and file a written request for reconsideration by the Director. In addition, ADEQ proposes to increase the time allotted to respond to requests for reconsideration to 20 working days instead of 10 working days.

R18-14-109. Effect on County Fees. This provision is identical to the language in the current R18-14-107.

R18-14-110. Review of Fees. Based on feedback from Stakeholders, ADEQ proposes to evaluate the formula approach to calculating the hourly rate fee at the end of 4 years. If the formula approach and flat fees are not providing adequate fees, rule revisions will be proposed.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis for the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority to a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The rulemaking is intended to increase ADEQ's WQPS revenues in conjunction with decreasing ADEQ costs by implementing permitting efficiencies and process improvements to match the budgeted levels for WQPS. Based upon the current fee rule and previously applicable fee structure, the ranges of fees for certain categories of services completed between FY97 and FY99 are provided in the following table.

Arizona Administrative Register
Notices of Proposed Rulemaking

WQPS Permits: Range of Hours and Fees for Applicants Subject to Fees					
SERVICE	Number of Observations	Hours		Fees	
		Low	High	Low	High*
Individual APPs (FY97-99)	161	18.0	2,266.7	\$882.00	\$16,000.00
Maj. Modifications (FY97-99)	30	8.8	687.9	\$431.20	\$16,000.00
Clean Closures (FY97-99)	60	14.3	202.5	\$700.70	\$3,000.00
Reuse (FY97-99)	103	12.1	114.0	\$592.90	\$6,954.00
ATCs (FY98 only)	281	2.8	105.3	\$137.20	\$5,159.70
* Fees capped at \$16,000 per permit and \$25,000 per site in statute and \$3,000 for clean closure in rule. The actual costs of permitting based on \$49/hour would have been \$138,268.70 for the individual permit; \$41,961.90 for the major modification; and \$12,352.50 for the clean closure.					

The data show a large range in the amount of time utilized by ADEQ staff to process the permits. The variation is attributable to variations in the quality and complexity of the application submittal among other factors. Compared with these fees, ADEQ estimates that fees for those facilities requiring individual permits will most likely increase under the proposed rules while those qualifying for general permits should experience a decrease in fees.

Parties who will be directly affected by the proposed rule are as follows:

1. ADEQ, the implementing agency, will be impacted by an increase in the revenues for WQPSs. This increase is necessary to pay for costs associated with WQPS workplan hours. The proposed rulemaking sets forth a formula for calculating the hourly rate which may be adjusted annually. The ability to adjust the fee annually will benefit ADEQ by allowing it to accommodate increases or decreases in permitting costs. In addition to the hourly fees charged for processing some WQPSs, the proposed flat fees for general permits, DOAs and subdivision approvals, are appropriate so that the WPS recovers all direct program related costs. The reductions in permit/approval processing times as envisioned in the UWQP and RWP Rules will assist the WPS in completing projects below the specified maxima and reducing permitting costs per project to ADEQ as well as to each applicant.
2. WQPS Applicants in the public and private sectors. State agencies required to obtain an APP for discharging facilities covered by the UWQP or RWP rules will not be affected because the implementing statutes explicitly exempt state-owned facilities from paying fees for the various WQPSs provided by ADEQ. Other political subdivisions of the state, like counties and municipalities, that are owners and operators of discharging facilities and private entities will most likely see an increase in permitting fees where individual APPs are still necessary. Those that qualify for a general permit should realize an overall costs savings. Additional details regarding the costs to the applicants are provided in the Costs and Benefits part of this economic summary, below.
3. Consumers of products or services offered by permitted entities, who will bear the permit costs or savings that are passed on to them by permittee/applicants.

Costs and Benefits of the Proposed Rule

The following hypothetical examples suggest how the fees could change under the proposed rule. Although these examples are considered typical for the permit/approval types shown, actual costs may vary considerably due to variations in application completeness, facility type, site conditions, selected designs, the extent of public involvement, and other factors. A new municipal sewage treatment facility currently incurs fees for ATC, AOC and the individual APP of close to \$9,000. Under the proposed rulemaking and considering the potential impacts from the proposed UWQP rule, ADEQ estimates that the fees will increase by approximately 10%. It is unlikely that this type of facility would qualify for any of the general APPs proposed in the UWQP. An industrial operation currently incurs fees for an individual APP of approximately \$4,900, assuming a fairly complete application and no public hearing. Under the proposed rulemaking, the fees would increase by approximately 24.5% due to the increase in the hourly rate. ADEQ expects that many industrial operations currently subject to individual APP requirements will qualify for Type 3 general APPs proposed under the UWQP rule. For these situations, the permitting fee would be reduced by 31% and annual registration fees would no longer apply to the operation. Even with the renewal fee for Type 3 permits, if no changes occur, the facility would be able to operate for more than 15 years (three GP permit cycles) before the GP fees equal the estimated individual permit fee. The cost benefit is even greater because the general permit would not

require monitoring and reporting to ADEQ as would be required in the individual APP. Most mining operations currently pay the maximum fee for an individual APP (\$16,000). Under the proposed rule, a typical large mining operation would pay approximately \$45,000 in permitting fees, even if some facilities within the site could qualify for a general APP. The mining operation example indicates an increase of 180% in fees. The significant increase in the fees for the mining operations is due to the combined effect of the hourly rate increase and the increase in the maximum fee. As described earlier, fees for mining operations commonly exceeded the arbitrarily low fee cap, and these projected fees reflect a more realistic cost of permitting. A typical reclaimed water facility was permitted for five years for approximately \$2,000. Under the proposed RWP rule, the fee for a reclaimed water individual permit should be approximately the same. ADEQ estimates that the permitting fees for a typical reclaimed water facility which qualifies for a Type 3 general permit would decrease by 15% for the initial permit. The reduction in costs when comparing the renewal fees (an individual permit to the general permit) should show a similar if not greater savings considering that time for public noticing the renewal is not required for the general permit. ADEQ expects that the majority of reclaimed water general permit applicants could potentially qualify for a Type 2 general permit. Applicants qualifying for a reclaimed water Type 2 GP could gain an even greater cost savings. Fees for an ATC and AOC for an individual onsite wastewater treatment facility used for a residential home, have typically been approximately \$1100. Assuming that a design may utilize three Type 4 general APPs, ADEQ estimates that the permit fee will be approximately the same. Most sewage treatment facilities and onsite wastewater treatment facilities discharging less than 20,000 gpd were subject to fees for ATCs and AOCs, but not individual APP fees. A typical system discharging 20,000 gpd would have approval fees of \$1800. Under this rulemaking these systems would be subject to a \$1500 general APP fee, or a 17% reduction in fees. Those facilities discharging between 20,000 gpd and 24,000 gpd would typically realize a significant savings because they would not have to pay additional fees for the individual APP. The impacts on applicants qualifying for a Type 2 permit are demonstrated using a dry well facility scenario. ADEQ typically issues an individual APP for dry well facilities for \$3000. The individual permits take on average between 6-12 months to issue and require some monitoring and reporting imposing additional costs for the life of the facility. Because of the nature of the operation, most of these facilities fall below the flow volume of discharge required to pay an annual registration fee under A.R.S. § 49-241.02. ADEQ anticipates that many of these facilities will qualify for a Type 2 general permit under the UWQP rule. ADEQ proposes a fee of \$300 for the Type 2 general permit which must be renewed every 5 years. Even if the applicant had to supply the same type of information to qualify for the general permit as was required for an individual permit, the applicant benefits by having its permit upon the applicant's notification to ADEQ and being able to operate the facility for approximately 50 years under the general permit before matching the fee for the individual permit. From the applicants' standpoint, most fee reductions will be realized by the shift from individual permits to general permits, even with the renewal requirement for the general permit fees. General permits will enable many applicants to obtain their permits in a shorter timeframe, and vastly increase the predictability of their costs. Since at much as one-half of the WQPS permit inventory (pending projects) may be processed as general permits once the UWQP rule becomes effective, the dollar savings could be substantial to the applicants. ADEQ expects that the total amount of staff hours for processing individual APP applications will drop sharply with the implementation of these new general permits. The Department believes that the increase in fees reflects the reasonable and fair cost of providing WQPSs. The Department was unable to incorporate specific methods to reduce the impact on small business and consumers, however, the flat fees for general permits and the reduction in initial fees coupled with the simplified permitting process in the proposed UWQP and RWP rules should reduce the impact to many applicants including small businesses. Additional information and analysis will be provided in the final EIS.

9. The name and address of agency personnel with whom person may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Contact: Jane DeRose-Bamman
Address: ADEQ
3033 N. Central Avenue
Phoenix, Arizona 85012
Telephone: 602-207-4374
Fax: 602-207-4674

10. The time, place, and nature of the proceedings for the adoption, amendment or repeal of the rule, or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Tuesday, August 1, 2000, 11:30 a.m.
Coconino County - Administrative Offices
219 E. Cherry Avenue, 1st Floor, Board Room
Flagstaff, Arizona 86001

Arizona Administrative Register
Notices of Proposed Rulemaking

Wednesday, August 2, 2000, 11:30 a.m.
ADEQ - Room 1706
3033 N. Central Avenue
Phoenix, Arizona 85012

Thursday, August 3, 2000, 11:30 a.m.
State of Arizona Building
400 W. Congress
North Building, Room 5
Tucson, Arizona 85701

Comments must be received by ADEQ by 5:00 p.m. on Friday, August 5, 2000 or postmarked no later than August 5, 2000. ADEQ is committed to complying with the Americans With Disabilities Act. If any individual with a disability needs any type of accommodation, please contact ADEQ at least 72 hours before the oral proceeding.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rule follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 14. DEPARTMENT OF ENVIRONMENTAL QUALITY PERMITS AND COMPLIANCE FEES

ARTICLE 1. WATER QUALITY PROTECTION SERVICES

Section

R18-14-101. Definitions

R18-14-102. Fee Services

R18-14-103. Hourly Rates and ~~Initial Fees~~ Annual Fee Schedule

R18-14-104. ~~Maximum Fees~~ Initial Fees

~~Schedule A. Initial Fees For ADEQ Water Quality Protection Permits~~

~~Schedule B. Initial Fees for Water Quality Protection Services Other than Permits~~

~~Schedule C. Maximum Water Quality Protection Permit Fees~~

~~Schedule D. Maximum Fees for Water Quality Protection Services Other than Permits~~

Table 1 Initial Fees for Approvals to Construct, Approvals of Construction and Time Extensions

R18-14-105. ~~Fee Assessment and Collection~~ Maximum Fees

Table 2 Maximum Fees for Approvals to Construct and Approvals of Construction

R18-14-106. ~~Reconsideration of the Bill; Appeal Process~~ General Permit Fees

Table 3 General Permit Fees

R18-14-107. ~~Effect on County Fees~~ Fee Assessment and Collection

R18-14-108. ~~Review of Fees~~ Reconsideration of the Bill; Appeal Process

R18-14-109. Effect on County Fees

R18-14-110. Review of Fees

ARTICLE 1. WATER QUALITY PROTECTION FEES

R18-14-101. Definitions

In addition to the definitions prescribed in ~~ARS~~ A.R.S. §§ 49-101, 49-201, 49-241.02, 49-331, and 49-362(I), 18 A.A.C. 9, Articles 1 and 7, the terms in this Article have the following meanings:

1. "ADEQ" means the Arizona Department of Environmental Quality.

2. "Annual inspection" means ~~an annual inspection of sewage disposal for a subdivision pursuant to ARS § 49-104(B)(11) an annual inspection of a sewage collection, treatment, disposal or reclamation system pursuant to ARS § 49-104(B)(13) or a mandatory annual routine operation and maintenance inspection of an on-site wastewater treatment facility pursuant to ARS § 49-362(A)(5).~~

"Annual reclaimed water inspection" means an annual inspection of a facility covered by a reclaimed water permit under A.R.S. § 49-104(C).

Arizona Administrative Register
Notices of Proposed Rulemaking

- “APP” means an individual, area wide, or general permit issued under A.R.S. §§ 49-203 or 49-241 through 49-252, or 18 A.A.C. 9, including denied permit applications.
3. “Approval of construction” means an ADEQ approval to operate a constructed wastewater collection, treatment, storage, or disposal facility, or sewer line ~~extensions~~ extension or line ~~replacements~~ replacement, issued pursuant to under A.A.C. R18-9-805.
4. “Approval to construct” means an ADEQ approval to construct a proposed wastewater collection, treatment, storage, or disposal facility, or sewer line ~~extensions~~ extension or line ~~replacements~~ replacement, issued pursuant to under A.A.C. R18-9-804.
5. “Approved” or “approval” means written approval from ADEQ.
6. “Aquifer protection permit” means an individual, area wide, or general permit issued pursuant to ARS §§ 49-203 or 49-241 through 251, or 18 A.A.C. 9, including denied permit applications.
“Area-wide APP” means a permit under A.R.S. § 49-243(P).
“Centralized onsite wastewater treatment facility” means any onsite wastewater treatment facility designed to handle sewage flow from more than 1 lot.
“Closure APP” means an application to close a facility covered by an individual APP or a facility which operated after 1986 and is not covered by an APP and cannot qualify for “closure without an APP”.
“Closure without an APP” means an application has met either the conditions of A.R.S. §49-252(D) and ADEQ has issued an approval of clean closure or the conditions for closure specified in a Groundwater Quality Protection Permit for the facility.
“Complex modification” means a modification in A.R.S. §49-241.02(F)(2) or for a facility in the dry well, industrial and wastewater sectors means a proposal to alter 1 or more facilities covered by an APP that includes or requires any of the following: an expansion of an existing pollutant management area; a new subsurface disposal including injection or recharge, or new wetlands construction; a change in process chemicals used or other alterations to discharge characteristics such that BADCT reevaluation is necessary; an incorporation of extensive compliance schedules into a permit; a discharge to the waters of the U.S. with the potential to impact the downgradient protective uses; submission of data indicating contamination, or identification of new discharging facilities, or previously unidentified pollutants that require reevaluation of BADCT; or a modification to a permit for a facility which cannot meet the clean closure requirements of A.R.S. §49-252 and require post-closure care, monitoring, and/or remediation.
7. “Conventional septic tank” means a septic tank system with a capacity of greater than 2,000 gallons per day.
“Determination of Applicability” means the ADEQ review of a proposed or existing facility to determine whether the facility is subject to APP requirements in 18 A.A.C. 9.
“Dry well” has the meaning prescribed in A.R.S. § 49-331 for the purposes of dry well registration, but for the purposes of all other WQPSs, means a well with depth greater than its width and designed to manage storm water, but that receives or has received other unauthorized wastewater discharges such that groundwater may be impacted, or which drains an area where hazardous substances are used, stored, loaded, or treated.
“ERE” means the quotient of employee related expenditures to personal services.
8. “gpd” means gallons per day.
“GP” means a general permit.
“General APP” means A.R.S. § 49-245.01 and 49-245.02 and any permit adopted under A.R.S. § 49-245.
“Individual onsite wastewater treatment facility” means an onsite wastewater treatment facility that serves a single residential lot, recreational vehicle space, or mobile home space.
“Labor” means salary and ERE for WQPS related hours.
9. “Major modification” means any revision to an issued aquifer protection permit pursuant to ARS § 49-201(19).
10. “NPDES permit” means a National Pollutant Discharge Elimination System permit issued by ADEQ pursuant to under the delegated authority from the U.S. Environmental Protection Agency for a point source discharge of pollutants into waters of the United States, as required by 33 U.S.C. 1342 (402) of the Clean Water Act. For purposes of this Article, an NPDES permit includes a denied permit application for an NPDES permit.
11. “Other modification” means a revision to an issued aquifer protection permit that is not a major modification, and includes a minor modification as defined in R18-9-121(D).
“Operating costs” means the expenses related to building (rent, utilities (including extra air conditioning), landscaping, maintenance, parking); liability insurance; centralized printing; postage; communications (telephone equipment, telephone lines, voicemail and maintenance); information technology (software licenses and contractors); and salary, benefits and other operating costs for certain ADEQ Administration Division staff and ADEQ Director’s Office staff.

Arizona Administrative Register
Notices of Proposed Rulemaking

- “Operating costs rate” means the rate calculated annually by ADEQ and approved by U.S. EPA to cover operating costs and applied to each labor dollar.
- “Onsite wastewater treatment facility” means a conventional septic tank system or alternative system that is installed at a site to treat and dispose of wastewater of predominantly human origin generated at that site but does not include a pre-fabricated, manufactured treatment works that typically utilizes an activated sludge unit process and has a design flow of 3,000 gallons per day or more.
- “Other operating costs” means costs not covered by the operating costs directly related to WQPS staff including but not limited to: supplies (for example pens, paper, binders), fees for outsourced training courses, motor pool, and equipment (including computer leasing and printers).
12. “Owner or operator” means a person with a vested interest in real or personal property, or an authorized representative or agent of that person.
- “Permit transfer” means transfer of responsibility to comply with a permit or approval from 1 owner or operator to another.
- “Provisional Verification of General Permit Conformance” means written notification from ADEQ that the onsite wastewater treatment facility design conforms with all conditions of the applicable general permit or permits and other applicable requirements of 18 A.A.C. 9 including a site visit.
- “Product Review” means ADEQ verification that a product used in an onsite wastewater treatment facility will significantly affect treatment performance or provide the means to overcome site limitations.
- “Reclaimed Water General Permit” means a general permit developed under A.R.S. § 49-203(A)(6) as amended by Laws 1999, Ch. 26, § 5.
- “Reclaimed Water Individual Permit” means an individual permit issued or application denied under 18 A.A.C. 9, Article 7.
13. ~~“Related costs” means ADEQ expenditures for supplies, equipment, analysis, photocopying, transportation, and per diem.~~
14. “Request” means a written application, letter, or memorandum submitted by the owner or operator to ADEQ for water quality protection services. A request is made at the time it is received at ADEQ.
15. “Reuse permit” means a permit issued by ADEQ for wastewater effluent reuse under A.A.C. R18-9-702(C). A reuse permit includes a denied application for a reuse permit.
- “Sewage” means untreated wastes from toilets, baths, sinks, lavatories, laundries, and other plumbing fixtures in places of human habitation, employment, or recreation.
- “Sewage collection system” means the system of pipelines, conduits, manholes, pumping stations, force mains, and all other structures, devices and appurtenances that collect, contain and conduct sewage from its sources to the entry into a sewage treatment facility or onsite wastewater treatment facility serving sources other than a single residence.
- “Sewage treatment facility” means a plant or system for sewage treatment and disposal, except an onsite wastewater treatment facility, that consists of treatment works, disposal works, and appurtenant pipelines, conduits, pumping stations and related subsystems and devices.
16. “Significant Industrial Users” means the same as in 40 CFR 403.3(t).
17. “Site visit” means an inspection conducted prior to issuance of an approval of construction or approval to construct a permit or approval.
- “Subdivision Approval” means a Certificate of Approval for Sanitary Facilities for a Subdivision issued by ADEQ under 18 A.A.C. 5, Article 4.
- “Standard modification” means an amendment to an individual permit that is not a complex modification.
18. “Time extension” means a written extension of the expiration date for an existing construction approval issued by ADEQ.
- “Type 1 GP” means a general permit requiring no notification to ADEQ developed under to A.R.S. § 49-245 or A.R.S. § 49-203(A)(6) as amended by Laws 1999, Ch. 26, § 5.
- “Type 2 GP” means a general permit requiring the applicant to notify ADEQ of its intent to discharge according to the GP requirements developed under A.R.S. § 49-245 or A.R.S. § 49-203(A)(6) as amended by Laws 1999, Ch. 26, § 5.
- “Type 3 GP” means a general permit requiring the applicant to notify ADEQ of its intent to discharge according to the GP requirements and to obtain ADEQ’s verification that the discharge meets the GP requirements developed under A.R.S. § 49-245 or A.R.S. § 49-203(A)(6) as amended by Laws 1999, Ch. 26, § 5.
- “Type 4 GP” means a general permit requiring the applicant to notify ADEQ of its intent to discharge according to the GP requirements and to obtain ADEQ’s provisional verification and verification that the design and construction of the treatment and disposal system meet the GP requirements developed under A.R.S. § 49-245.

Arizona Administrative Register
Notices of Proposed Rulemaking

19. “U.S. EPA” means the United States Environmental Protection Agency.
- “Verification of General Permit Conformance” means written notification from ADEQ that the subject discharge conforms with all terms and conditions of the applicable general permits and other applicable requirements of 18 A.A.C. 9, including site visits and final construction inspection.
20. ~~“Wastewater treatment facility” means any of the processes, devices, structures, pipes, equipment, and earth works which are used for collecting, treating, and disposing of domestic wastewater, including reusing the treated wastewater. Wastewater treatment facility does not include conventional septic tanks or industrial, agricultural, or similar systems or facilities for the collection, distribution, treatment, reuse, or disposal of wastewater or if the water or wastewater is used or reused for nonpotable purposes.~~
21. ~~“Water quality protection service “WQPS” means a water quality protection service performed by ADEQ that includes any of the following: reviewing a request for a determination of applicability; completing a permit action including transferring an aquifer protection permit; reviewing supplemental information submitted to ADEQ as required by a permit condition; issuing, renewing, modifying amending, transferring, or denying an aquifer protection permit; a reuse or reclaimed water permit, or NPDES permit; performing a clean closure plan review; issuing, renewing, or transferring a verification or provisional verification for a general permit; issuing a Subdivision Approval; registering a dry well; reviewing a request for an “approval to construct”, “approval of construction”, or a time extension request; request including issuing an approval; conducting a site visit; registering significant industrial users; or conducting an annual reclaimed water inspection.~~
- “Workplan hours” means the projected amount of work based on existing and expected projects that will be accomplished within 1 fiscal year.

R18-14-102. Fee Services

- A. ADEQ shall assess and collect fees for ~~water quality protection services~~ WQPSs, including any site visits.
- B. ~~ADEQ shall not charge a fee for the first 30 minutes of technical assistance provided during an annual inspection or site visit. Except as set forth in subsection (D)(1), ADEQ shall calculate the fee for each WQPS based upon the number of hours of review, multiplied by the hourly rate effective at the time the hours of review were incurred, plus any review-related costs, up to any maximum rate specified by R18-14-105.~~
- C. For applications which are subject to an hourly rate fee under subsection (B), ADEQ shall:
1. Charge fees for all review hours except for travel time and the 1st 60 minutes of ADEQ consultation time provided prior to the applicant submitting a written request to ADEQ. ADEQ may waive part or all of the costs for additional pre-application time.
 2. Include in the WQPS fee the following review-related costs, if applicable:
 - a. Presiding officer services for public hearings on the permitting decision;
 - b. Court reporter services for public hearings on the permitting decision;
 - c. Facility rentals for public hearings on the permitting decision;
 - d. Laboratory analysis charges if agreed to by the applicant; and
 - e. Other reasonable, direct, plan review-related expenses documented in writing by ADEQ and agreed to by the applicant.
- D. ADEQ shall charge flat fees for established WQPSs. If ADEQ assesses a flat fee, ADEQ shall not charge for review-related costs as specified in subsection (C)(2) for the WQPS.
1. Flat fees for established WQPS are as follows:
 - a. Dry well registration is \$10 per dry well, under A.R.S. § 49-332(A);
 - b. Significant industrial user registration is \$250 per year, under A.R.S. § 49-209(A).
 - c. Determination of applicability is \$100 per request. If ADEQ determines that an individual APP is required or that the application qualifies for a Type 2, 3 or 4 general APP, the \$100 fee will be applied to the final bill for the individual APP or the flat fee for the general permit. The fee will be waived if the DOA is completed as part of an area-wide permit being processed by ADEQ.
 - d. Subdivision Approval for subdivisions planned for 150 lots or less and with:
 - i. Connections from each lot to a sewage treatment facility or to a centralized onsite wastewater treatment facility is \$500.
 - ii. Individual onsite wastewater treatment systems is \$1000.
 - e. General permit is as specified in R18-14-106.
 2. ADEQ may periodically adjust the flat fees specified in subsection (D)(1)(c) through (D)(1)(e) by rule to account for inflation by multiplying the flat fee by the consumer price index.

R18-14-103. Hourly Rates and ~~Initial Fees~~ Annual Fee Schedule

- A. ~~Except as set forth in subsection B, the fee for any service described in R18-14-102 shall be calculated using an hourly rate of \$49 multiplied by the number of hours reasonably required to provide a water quality protection service.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

1. ~~ADEQ shall not charge the owner or operator a fee for an initial meeting to consult with ADEQ personnel prior to submitting a request for water quality protection services.~~
 2. ~~ADEQ shall not bill an owner or operator travel time. ADEQ shall calculate an hourly rate annually in accordance with the formula provided in subsection (C). Except for FY2001, by June 1 of each year, ADEQ shall provide the public an opportunity to comment on factors used to derive the hourly rate and publish the hourly rate in a Fee Schedule in the Arizona Administrative Register. ADEQ shall apply the new hourly rate for activities performed between July 1 of that same year and June 30 of the following year. In FY2001, the hourly rate shall be \$61/hour and shall be applied towards review hours incurred from the effective date of this section through June 30, 2001.~~
- B.** The following flat fees are established for the identified services:
1. The fee for a dry well registration shall be \$10 per dry well.
 2. The fee for a significant industrial user registration shall be \$250 per year. Annually, ADEQ shall develop a workplan for all work. The workplan shall identify the workplan hours required to complete WQPSs within a fiscal year.
- C.** The initial fees for all ADEQ water quality protection services, set forth in Schedules A or B, shall be paid at the time the request for services is made. When more than 1 initial fee is applicable to a request for multiple water quality protection services, or for application for multiple types of discharging facilities, the initial fee owed shall be the sum of all applicable initial fees, not to exceed the applicable maximum fee. The owner or operator shall remit a separate initial fee for each request. If an initial fee exceeds the maximum fee charged under a fee cap, the owner or operator shall remit the applicable capped fee. Annually, ADEQ shall calculate its hourly rate using the following formula: [labor + (operating costs rate x labor) + other operating costs] ÷ workplan hours.
- D.** Upon request, ADEQ may set an alternative, lower initial fee on a case-by-case basis, when it is likely that the final fee will not exceed 70% of the otherwise applicable initial fee.

~~R18-14-104. Maximum Fees~~

ADEQ shall not assess more than the maximum fee for each of the services set out in Schedules C and D.

~~Schedule A. Initial Fees for Initial Fees For ADEQ Water Quality Protection Permits~~

~~Schedule A-~~

INITIAL FEES FOR ADEQ WATER QUALITY PROTECTION PERMITS

TYPE OF DISCHARGING-	New-	Major-	Other
PERMIT ¹	Permit ²	Modification-	Modification
Wastewater Treatment Facilities			
(With a design greater than or equal to 20,000 gpd)			
Lined Surface Impoundments-	\$1,800-	\$1,000-	\$100
Discharge to Surface Waters-	\$1,800-	\$1,000-	\$100
Subsurface Discharge-	\$2,400-	\$1,200-	\$100
Wastewater Treatment Facilities			
(With a design Less than 20,000 gpd)			
	\$1,200-	\$600-	\$100
Industrial Facilities			
Lined Surface Impoundments-	\$4,500-	\$2,200-	\$300
Discharge to Surface Waters-	\$4,500-	\$2,200-	\$300-
Subsurface Discharge-	\$4,500-	\$2,200-	\$300
Mine Facilities			
Tailing Piles or Ponds-	\$6,000-	\$3,000-	\$400
Base Metal Leaching Operations-	\$6,000-	\$3,000-	\$400
Discharge to Surface Waters-	\$4,500-	\$2,200-	\$300
Precious Metal Processing-	\$4,800-	\$2,400-	\$400
In-Situ Leaching-	\$6,000-	\$3,000-	\$400
Other-	\$4,000-	\$2,000-	\$400

Arizona Administrative Register
Notices of Proposed Rulemaking

Other Permits

Other Discharging Facilities-	\$4,000-	\$2,000-	\$300
Reuse Permit-	\$1,400-	—	\$100

~~Schedule B. Initial Fees for Water Quality Protection Services Other than Permits~~

¹ Fees paid pursuant to A.A.C. R18-9-123 for permit applications submitted but not acted upon as of the effective date of this rule shall be deemed to satisfy the initial fee under the rules.

² Permit includes individual aquifer protection permits, and will include NPDES permits if ADEQ receives delegation from the United States Environmental Protection Service to administer the NPDES program in ARIZONA.

Schedule B

INITIAL FEES FOR WATER QUALITY PROTECTION SERVICES OTHER THAN PERMITS

ADEQ SERVICE	INITIAL FEE
Aquifer Protection Permit-	
Applicability Determination Reviews-	\$0
Clean Closure Plan Reviews-	\$0-
Construction Approvals and Time Extension Reviews for an On-Site Wastewater Disposal System-	\$100-
Construction Approvals and Time Extension Reviews for Domestic Wastewater Systems, Including Collection Systems (greater than or equal to 2,000 gpd, but less than 20,000 gpd)-	\$500-
Construction Approvals and Time Extension Reviews for Domestic Wastewater Systems, Including Collection Systems (greater than or equal to 20,000 gpd)-	\$1,000-

~~Schedule C. Maximum Water Quality Protection Permit Fees~~

Schedule C

MAXIMUM WATER QUALITY PROTECTION PERMIT FEES

TYPE OF DISCHARGING PERMIT	New Permit^{1, 2, 3}	Major Modification⁴	Other Modification⁴
Wastewater Treatment Facilities (With a design greater than or equal to 20,000 gpd⁵)			
Lined Surface Impoundments-	\$16,000-	\$10,600	\$1,500
Discharge to Surface Waters-	\$16,000-	\$10,600	\$1,500
Subsurface Discharge-	\$16,000-	\$15,300-	\$2,300
Wastewater Treatment Facilities (With a design less than 20,000 gpd)-			
	\$16,000-	\$8,000-	\$1,100
Industrial Facilities			
Lined Surface Impoundments-	\$16,000-	\$16,000	\$2,900
Discharge to Surface Waters-	\$16,000-	\$16,000	\$4,000
Subsurface Discharge-	\$16,000-	\$16,000-	\$4,000

Mine Facilities

Arizona Administrative Register
Notices of Proposed Rulemaking

Tailing Piles or Ponds	\$16,000	\$16,000	\$10,000
Base Metal Leaching Operations	\$16,000	\$16,000	\$10,000
Precious Metal Processing	\$16,000	\$16,000	\$7,200
Discharge to Surface Waters	\$16,000	\$16,000	\$8,200
In-Situ Leaching	\$16,000	\$16,000	\$8,200

~~Other Permits~~

Other Discharging Facilities	\$16,000	\$16,000	\$4,300
Reuse permit	\$16,000	_____	\$2,300

¹ ~~Permit includes individual aquifer protection permits and NPDES permits.~~

² ~~In addition to this table, maximum payments for aquifer protection permit fees are limited by ARS § 49-241.02.~~

³ ~~Where an applicability review determines that an individual aquifer protection permit is needed, the fee for the applicability determination will be added to the total permit fee.~~

⁴ ~~Permit includes individual aquifer protection permits, and will include NPDES permits if ADEQ receives delegation from the United States Environmental Protection Service to administer the NPDES program in Arizona.~~

⁵ ~~In the case of system with annual gross revenues of \$3000,000 or less, the maximum fee charged will be capped at 1% of the gross revenues.~~

~~Schedule D. Maximum Fees For Water Quality Protection Services Other Than Permits~~

~~Schedule D~~

~~MAXIMUM FEES FOR WATER QUALITY PROTECTION SERVICES OTHER THAN PERMITS~~

ADEQ SERVICE	Review Approval to Construct Requests	Review Approval of Construction Requests
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~~Construction Approvals and Time Extension Reviews for an On-Site Wastewater Disposal System~~

\$700	\$700
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~~Construction Approvals and Time Extension Reviews for Domestic Wastewater Systems, Including Collection Systems
(greater than or equal to 2,000 gpd, but less than 20,000 gpd)~~

\$4,500¹	\$4,500²
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~~Construction Approvals and Time Extension Reviews for Domestic Wastewater Systems, Including Collection Systems
(greater than or equal to 20,000 gpd)~~

\$10,000³	\$10,000⁴
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~~ADEQ SERVICE~~ ~~CHARGE~~

~~Annual Inspections~~ ~~\$3,200~~

~~Clean Closure Plan Review~~ ~~\$3,000~~

¹ ~~In the case of systems with annual gross revenues of \$300,000 or less, the maximum fee charged will be capped at 1% of the gross revenue.~~

² ~~In the case of systems with annual gross revenues of \$300,000 or less, the maximum fee charged will be capped at 1% of the gross revenue.~~

³ ~~In the case of systems with annual gross revenues of \$300,000 or less, the maximum fee charged will be capped at 1% of the gross revenue.~~

⁴ ~~In the case of systems with annual gross revenues of \$300,000 or less, the maximum fee charged will be capped at 1% of the gross revenue.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

R18-14-104. Initial Fees

- A.** The applicant shall submit the appropriate initial fee, set forth in subsection (B) of this Section, with each application or written request for service at the time that the application or request is submitted to ADEQ for review. The applicant shall remit a separate initial fee for each request.
- B.** For services subject an hourly rate fee under R18-14-102(B), the initial fee shall \$1000 except for a request for an Approval to Construct or an Approval of Construction. The initial fee for an Approval to Construct or an Approval of Construction are set forth in Table 1.
- C.** Upon request, ADEQ may set an alternative, lower initial fee on a case-by-case basis, when ADEQ estimates that the final review fee will be less than the applicable initial fee.

TABLE 1¹		
INITIAL FEES FOR APPROVALS TO CONSTRUCT		
APPROVALS OF CONSTRUCTION AND TIME EXTENSIONS		
<u>FACILITY TYPE</u>	<u>INITIAL FEE</u>	
	<u>APPROVAL TO CONSTRUCT</u>	<u>APPROVAL OF CONSTRUCTION</u>
<u>Individual onsite wastewater treatment facility</u>	<u>\$100</u>	<u>\$100</u>
<u>Sewage collection system or a sewage treatment facility (greater than or equal to 2000 gpd, but less than 20,000 gpd)</u>	<u>\$500</u>	<u>\$500</u>
<u>Sewage collection system or a sewage treatment facility (greater than or equal to 20,000 gpd)</u>	<u>\$1000</u>	<u>\$1000</u>
<u>Time Extension Requests for any facility</u>	<u>\$100</u>	<u>\$100</u>

¹ Table 1 is repealed on January 1, 2001.

R18-14-105. Fee Assessment and Collection

- A.** ~~An owner or operator of a facility or activity at which ADEQ has conducted an annual inspection shall pay the final itemized bill within 30 days from the date on which the final inspection report and final itemized bill are mailed to the owner or operator.~~
- B.** ~~Except for annual inspections, ADEQ shall not review any requests for water quality protection services until the appropriate initial fee set forth in Schedule A or B of R18-14-104 is paid in full to ADEQ.~~
- C.** ~~After completion of its review, but prior to notification to the owner or operator of the final action on the request, ADEQ shall prepare a final itemized bill which shall contain:~~
- ~~1. The total number of hours of the review;~~
 - ~~2. The dates and number of hours of travel done as part of the review.~~
 - ~~3. The total amount of fees due.~~
 - ~~4. A description of each activity performed.~~
 - ~~5. The number of hours spent performing each activity.~~
- D.** ~~If the total amount of fees due exceeds the amount of the initial fee, ADEQ shall bill the owner or operator for the cost of the services, less the initial fee, up to the maximum allowed in Schedules C and D under R18-14-104. If the total amount of fees is less than the initial fee, ADEQ shall refund the difference to the person who paid the initial fee.~~
- E.** ~~ADEQ shall not take final action on a request until the final bill is paid in full.~~
- F.** ~~ADEQ shall not review any subsequent request for water quality protection services for an owner or operator until all past due fees are paid in full.~~
- G.** ~~Fees for water quality protection services shall be paid either by county check, purchase order, city check, company check, certified check, or money order, made payable to ADEQ.~~

R18-14-105. Maximum Fees

- A.** Maximum Fees for services relating to individual APPs and closure without an APP.
1. ADEQ shall specify maximum fees for review of APP actions, including complex and standard modifications, in a Fee Schedule.
 2. ADEQ shall annually determine maximum fees by calculating the permit hours multiplied by the hourly rate determined in R18-14-103(B). ADEQ shall provide the public an opportunity to comment on factors used to derive the maximum fees and publish the Fee Schedule in the Arizona Administrative Register by June 1 of each year.

Arizona Administrative Register
Notices of Proposed Rulemaking

3. ADEQ shall calculate permit hours as the 75th percentile of the number of hours to complete individual and area-wide permits, within a particular sector, issued within a rolling four year period.
 4. ADEQ shall set a maximum fee for review of an application when the application is deemed administratively complete as the lesser of the effective maximum fee determined under (A)(2) or the applicable maximum fee specified in A.R.S. § 49-241.02(B), as amended by Laws 2000, Ch. 399, § 1.
 5. For a pending project which was deemed administratively complete before August 1, 2000, ADEQ shall specify the maximum fee for the application in a supplemental notice.
 6. For pending projects submitted before August 1, 2000, ADEQ shall reduce the applicable maximum fee by the amount of fees paid prior to August 1, 2000 for that application review up to \$16,000.
 7. ADEQ shall not assess more than the maximum fee for each service.
- B. Maximum Fees for Reuse/Reclaimed Water Permits. ADEQ shall not charge more than \$16,000 for review of each reuse/reclaimed water individual permit application.
- C. Maximum Fees for Approvals to Construct and Approvals of Construction are specified in Table 2.

<u>TABLE 2¹</u>		
<u>MAXIMUM FEES FOR APPROVALS TO CONSTRUCT AND APPROVALS OF CONSTRUCTION</u>		
<u>ADEQ SERVICE</u>	<u>Review Approval to Construct Request</u>	<u>Review Approval of Construction Request</u>
<u>Request for an individual onsite wastewater treatment facility</u>	<u>\$1,000</u>	<u>\$1,000</u>
<u>Request for a sewage collection system or a sewage treatment facility (greater than or equal to 2000 gpd, but less than 20,000 gpd)</u>	<u>\$5,000</u>	<u>\$5,000</u>
<u>Request for a sewage collection system or a sewage treatment facility (greater than or equal to 20,000 gpd)</u>	<u>\$10,000</u>	<u>\$10,000</u>

¹ Table 2 is repealed on January 1, 2001.

R18-14-106. Reconsideration of the Bill; Appeal Process

- ~~A. An owner or operator may seek review of the final itemized bill by filing a written request for reconsideration with the Director. The request shall specify, in detail, why the bill is in dispute and shall include any supporting documentation. The written request for reconsideration shall be delivered to the Director in person, by mail or by facsimile within 30 days of the date of the final itemized bill.~~
- ~~B. The Director shall make a final decision on the request for reconsideration and mail a final written decision to the owner or operator within 10 working days after the date of receipt by the Director of the written request for reconsideration.~~
- ~~C. A final decision of the Director on a request for reconsideration is subject to the appeal process set forth in ARS § 41-1092 et seq.~~

R18-14-106. General Permit Fees

- ~~A. If an applicant notifies ADEQ that the applicant plans to operate a facility under any general permit specified in 18 A.A.C. 9, the applicant shall submit a fee with the written notification or request to ADEQ in accordance with the fees listed in Table 3.~~

Notices of Proposed Rulemaking

<u>GENERAL APP TYPE</u>	<u>PERMIT DESCRIPTION</u>	<u>PERMIT FEE or RENEWAL FEE IF CHANGES</u>	<u>RENEWAL FEE IF NO CHANGES</u>	<u>PERMIT TRANSFER FEE</u>
Type 1	All Type 1 GPs under 18 A.A.C. 9.	no fee	no fee	no fee
Type 2	All Type 2 GPs under 18 A.A.C. 9.	\$300	\$300	\$50
Type 3	All Type 3 GPs under 18 A.A.C. 9.	\$1500	\$500	\$50
Type 4	Sewer Collections System			
	Gravity Sewer Only with Manholes			
	Serving less than or equal to 50 connections	\$500		\$50
	Serving 51 to 300 connections			
	Serving 301 or more connections	\$1000		\$50
	Force Mains including gravity sewer components	\$1500		\$50
	Serving less than or equal to 50 connections			
	Serving 51 to 300 connections	\$800		\$50
	Serving 301 or more connections	\$1300		\$50
		\$1800		\$50

Arizona Administrative Register
Notices of Proposed Rulemaking

<u>Type 4 Onsite Wastewater Treatment Facility, Flow Less than 3000 gpd</u>	<u>Septic Tank/Conventional Disposal</u>	<u>\$400</u>		<u>\$50</u>
	<u>Composting Toilet</u>	<u>\$400</u>		<u>\$50</u>
	<u>Pressure Distribution System</u>	<u>\$500</u>		<u>\$50</u>
	<u>Gravelless Trench</u>	<u>\$500</u>		<u>\$50</u>
	<u>Natural Seal Evapotranspiration bed</u>	<u>\$600</u>		<u>\$50</u>
	<u>Lined Evapotranspiration Bed</u>	<u>\$600</u>		<u>\$50</u>
	<u>Wisconsin Mound</u>	<u>\$500</u>		<u>\$50</u>
	<u>Engineered Pad System</u>	<u>\$600</u>		<u>\$50</u>
	<u>Intermittent Sand Filter</u>	<u>\$600</u>		<u>\$50</u>
	<u>Peat Filter</u>	<u>\$600</u>		<u>\$50</u>
	<u>Textile Filter</u>	<u>\$600</u>		<u>\$50</u>
	<u>Ruck® System</u>	<u>\$600</u>		<u>\$50</u>
	<u>Sewage Vault</u>	<u>\$400</u>		<u>\$50</u>
	<u>Aerobic System/Subsurface Disposal</u>	<u>\$800</u>		<u>\$50</u>
	<u>Aerobic System/Surface Disposal</u>	<u>\$1000</u>		<u>\$50</u>
	<u>Cap System</u>	<u>\$400</u>		<u>\$50</u>
	<u>Constructed Wetlands</u>	<u>\$600</u>		<u>\$50</u>
	<u>Sand Lined Trench</u>	<u>\$500</u>		<u>\$50</u>
	<u>Disinfection Device</u>	<u>\$500</u>		<u>\$50</u>
	<u>Sequencing Batch Reactor</u>	<u>\$600</u>		<u>\$50</u>
	<u>Subsurface Drip Irrigation</u>	<u>\$500</u>		<u>\$50</u>
	<u>Onsite system designed to operate under more than 1 of Type 4 GPs described above.</u>	<u>See (B) below</u>		<u>See (B) below</u>
<u>Type 4 Onsite Wastewater Treatment Facility, Flow from 3000 gallons to less 24,000 gpd</u>	<u>Onsite Wastewater Treatment Facility, Flow from 3000 to less than 24,000 gpd.</u>	<u>\$1800</u>		<u>\$50</u>
<u>Optional Type 4 features</u>	<u>Request for Alternative Design, Installation, or Operational Feature</u>	<u>Add \$75/Change</u>		
	<u>Designs requiring interceptors</u>	<u>Add \$100/interceptor</u>		
	<u>Site visit necessary to verify construction deviations</u>	<u>\$150/inspection</u>		

- B.** For an onsite wastewater treatment system based on a design that combines elements from more than 1 Type 4 GPs, ADEQ shall calculate:
1. The fee by using the greatest fee established for any of the applicable general permits plus \$250 for each additional general permit used in the design, plus any additional fee for alternative design, installation or operational feature; interceptors; or necessary site visits to verify construction deviations.
 2. The transfer fee for 1 permit plus \$10 for each additional permit used in the design.
- C.** If a site contains more than 1 facility to be covered by the same type of Type 2 or Type 3 GP, and each facility is substantially similar in design, construction, and operation, ADEQ shall charge the full fee for the first facility and 1/3 of the fee for each additional facility.
- D.** ADEQ may set an alternative, lower fee for other general permitting situations not specified in subsections (B) or (C), on a case-by-case basis.

Arizona Administrative Register
Notices of Proposed Rulemaking

R18-14-107. Effect on County Fees

Nothing in this Chapter affects the authority of county or other local governments to charge fees for implementing delegated ADEQ water quality protection programs in accordance with statutory authority.

R18-14-107. Fee Assessment and Collection

- A. An applicant of a facility at which ADEQ has conducted an annual reclaimed water inspection shall pay the final itemized bill within 30 days from the date on which the final inspection report and final itemized bill are mailed to the applicant.
- B. Except for annual reclaimed water inspections, ADEQ shall not review any requests for a WQPS if the appropriate initial fee set forth in R18-14-104 has not been paid in full to ADEQ or if the permittee has any outstanding WQPS bill not under appeal.
- C. ADEQ shall bill the applicant for WQPS review fees no more frequently than monthly, but at least on a quarterly basis, and include the following information in each billing statement:
 - 1. The number of hours of the review accrued by employee by activity and subactivity code excluding hours for activities listed under R18-14-102(C)(1) during the billing period and the effective hourly rate for all activities;
 - 2. A description of any review-related costs;
 - 3. The total amount of fees due and paid and the maximum fee for the project; and
 - 4. A description by date of each activity performed.
- D. After ADEQ makes a final determination whether to grant or deny the request for a permit or an approval, or at the time the applicant withdraws or closes the application, ADEQ shall prepare a final itemized bill for the application review which shall contain:
 - 1. The total number of hours of the review excluding hours for activities listed under R18-14-102(C)(1) and the effective hourly rate;
 - 2. A description of each review-related cost incurred for the project and the amount;
 - 3. The total amount of fees due and paid and the maximum fee for the project; and
 - 4. A description by date of each activity performed.
- E. If the total amount of fees due exceeds the amount of the initial fee plus all billing, ADEQ shall bill the applicant for the cost of the services up to any applicable maximum fee set in R18-14-105. If the total amount of fees is less than the initial fee plus all billing, ADEQ shall refund the difference to the owner or operator.
- F. ADEQ shall not release the final permit or approval until the final itemized bill is paid in full.
- G. ADEQ shall not review any subsequent request for WQPSs for an applicant until all past due fees are paid in full, unless under appeal.
- H. Fees for WQPSs shall be paid by any method acceptable to the state of Arizona and ADEQ.

R18-14-108. Review of Fees

- A. By no later than the end of fiscal year 1999, ADEQ shall complete a review of revenues derived from and costs incurred for water quality protection services and shall issue a written report on the review.
- B. ADEQ shall afford the public an opportunity to participate in the review, including an opportunity to examine and comment on the report before a final report is issued.
- C. If the final report demonstrates that fees charged pursuant to this Chapter are higher or lower than the reasonable costs of providing water quality protection services, ADEQ shall, within 3 months after completing the review, commence a rule-making to adjust the fees accordingly.

R18-14-108. Reconsideration of the Bill; Appeal Process

- A. An applicant may seek review of a bill by filing a written request for reconsideration with the Director. The request shall specify, in detail, why the bill is in dispute and shall include any supporting documentation. The written request for reconsideration shall be delivered to the Director in person, by mail or by facsimile within 30 days of the date of the bill.
- B. The Director shall make a final decision on the request for reconsideration and mail a final written decision to the applicant within 20 working days after the date of receipt by the Director of the written request for reconsideration of the final itemized bill.

R18-14-109. Effect on County Fees

Nothing in this Chapter affects the authority of county or other local governments to charge fees for implementing delegated ADEQ water quality protection programs in accordance with statutory authority.

R18-14-110. Review of Fees

- A. ADEQ shall complete a review of revenues derived from and costs incurred for WQPSs through June 30, 2004 and shall issue a written report to the Legislature on the review by no later than the August 31, 2004.
- B. ADEQ shall afford the public an opportunity to participate in the review, including an opportunity to examine and comment on the report before a final report is issued.

Arizona Administrative Register
Notices of Proposed Rulemaking

- C.** If the final report demonstrates that fees charged under this Chapter are higher or lower than the reasonable costs of providing WQPSs, ADEQ shall, within 3 months after completing the review, commence a rulemaking to adjust the fees accordingly.